



City of Yuma City Council Meeting Agenda

Wednesday, September 18, 2024

5:30 PM

Yuma City Hall Council Chambers
One City Plaza, Yuma

Notice is hereby given, pursuant to Resolution R2015-047 that one or more members of the Yuma City Council may participate in person or by telephonic, video or internet conferencing. Voting procedures will remain as required by the Yuma City Charter and other applicable laws.

Those wishing to speak on an agenda item or during Call to the Public must complete a Speaker Request Form prior to the start of the meeting. Speaker Request Forms can be found on the City's website, in the Clerk's Office, as well as in the Council Chambers.

"Call to the Public" comments are limited to non-agenda items that pertain to City business under the authority and legislative functions of the City Council. The total time for "Call to the Public" is limited to 30 minutes.

Speaker Request Forms should be submitted to City clerk staff prior to the start of each meeting. All speakers, whether speaking on an agenda item or during "Call to the Public" are provided 3 minutes, with no more than 5 speakers permitted per topic/issue.

City Council Worksessions and Regular City Council Meetings can be viewed through the following platforms:

- Cable – Meetings are broadcast live on Spectrum Cable Channel 73.
- Live Stream – Residents can watch meetings on their computer or mobile device at www.yumaaz.gov/telvue. Previous Council meetings are also available on-demand.
- Virtual – Residents can watch meetings via Teams on their computer or mobile device at www.yumaaz.gov/publicmeetings. Click on "Calendar" then select the City meeting and click "Join".

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

FINAL CALL

Final call for submission of Speaker Request Forms for agenda related items.

ROLL CALL**I. MOTION CONSENT AGENDA**

All items listed on the Motion Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a Councilmember so requests. In which event, the item will be removed from the Motion Consent Agenda and the vote or action may be taken separately.

A. Approval of minutes of the following City Council meeting(s):

1. [MC 2024-133](#) **Regular Council Meeting Draft Minutes August 7, 2024**
Attachments: [2024 08 07 RCM Minutes](#)

2. [MC 2024-134](#) **Variance Appeal - Board of Adjustments Draft Minutes August 7, 2024**
Attachments: [2024 08 07 Variance Appeal Minutes](#)

B. Executive Sessions

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A(1), (3), (4), and (7). (City Attorney)

C. Approval of staff recommendations:

1. [MC 2024-135](#) **Liquor License: Sun Of A Gun Cigars**
Approve a Series #06: Bar Liquor License application submitted by Katherine Espinal, agent for Sun Of A Gun Cigars located at 1651 S. Arizona Avenue. (LL24-14) (City Administration/City Clerk) (Lynda L. Bushong)
Attachments: [1. MAP Liquor License: Sun of a Gun Cigars](#)

2. [MC 2024-142](#) **Liquor License: Yuma Market**
Approve a Series #10 Beer and Wine Store Liquor License application submitted by Haitham Yaldo, agent for Yuma Market, located at 890 E. 24th Street (LL24-12). (City Administration/City Clerk) (Lynda L. Bushong)
Attachments: [1. MAP Liquor License: Yuma Market](#)

3. [MC 2024-136](#) **Temporary Extension of Premises/Patio Permit: The Chile Pepper**
Approve a Temporary Extension of Premises/Patio Permit application submitted by Andrea Huff, agent for The Chile Pepper located at 1030 W. 24th Street. (EP24-02) (City Administration/City Clerk) (Lynda L. Bushong)
- Attachments:**
- 1. [MAP Temporary Extension of Premises: The Chile Pepper](#)
 - 2. [MAP Legend](#)
4. [MC 2024-137](#) **Permanent Extension of Premises/Patio Permit: Texas Roadhouse**
Approve a Permanent Extension of Premises/Patio Permit application submitted by Lauren Merrett, agent for Texas Roadhouse located at 594 E. 16th Street. (EP24-03) (City Administration/City Clerk) (Lynda L. Bushong)
- Attachments:**
- 1. [MAP Extension of Premises: Texas Roadhouse](#)
5. [MC 2024-138](#) **Bid Award: Colorado River Interceptor Manhole Replacements Phase I**
Authorize a construction services contract for the Colorado River Interceptor Manhole Replacements Phase I Project to the lowest responsive and responsible bidder in the amount of \$1,356,606.90 to TF Contracting Services, Phoenix, Arizona. (Engineering - RFB-25-012) (David Wostenberg/Robin R. Wilson)
6. [MC 2024-139](#) **Sole Source Contract: Hydrogen Peroxide**
Award a five-year Sole Source contract for Hydrogen Peroxide at an estimated annual expenditure of \$540,000.00 to US Peroxide, Atlanta, Georgia (Utilities SS-25-059) (Jeremy McCall/Robin R. Wilson)
7. [MC 2024-140](#) **Ratification: Settlement of Roberts v. City of Yuma, et al.**
Ratify settlement of the lawsuit *Frances Roberts v. City of Yuma, et al.* Yuma County Superior Court Case No. S1400CV202300792. (City Attorney) (Richard Files)

II. RESOLUTION CONSENT AGENDA

All items listed on the Resolution Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item will be removed from the Resolution Consent Agenda and the vote or action may be taken separately.

1. [R2024-049](#)

Intergovernmental Agreement: Arizona Western College

Adopt an intergovernmental agreement with Arizona Western College (AWC) for emergency medical technician and paramedic field training. (Fire/EMS) (Dustin Fields)

Attachments:

[1. RES IGA: Arizona Western College](#)

[2. AGR IGA: Arizona Western College](#)

2. [R2024-050](#)

**Order Improvements: Municipal Improvement District No. 126:
Barkley Ranch Units 8-10**

Order Improvements for Municipal Improvement District (MID) No. 126 to serve Barkley Ranch Units 8-10, to operate, maintain and repair landscaping improvements within, near and adjacent to the retention and detention basins and parking and parkways and related facilities together with appurtenant structures (Landscape Improvements); declaring the Landscape Improvements to be of more than local or ordinary benefit, and that the costs of the Landscape Improvements for MID No. 126 shall be assessed upon the properties in MID No. 126; providing that the proposed Landscape Improvements shall be performed under Arizona Revised Statutes (A.R.S.) Title 48, Chapter 4, Article 2. (Community Development/Community Planning) (Alyssa Linville)

Attachments:

[1. RES Order of Improvements MID No.126 Barkley Ranch Unit 8-10](#)

[2. EXH A Order Improvements MID 126 Barkley Ranch Units 8-10](#)

III. ADOPTION OF ORDINANCES CONSENT AGENDA

All items listed on the Ordinances Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item may be removed from the Ordinance Consent Agenda and the vote or action will be taken separately.

1. [O2024-028](#) **Annexation Area No. ANEX-42924-2024: Irwin Trust**
Authorize annexation of property located in the vicinity of E. 28th Street and S. Rebecca Avenue. (ANEX-42924-2024). (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments: [1. PET Annex: Irwin Trust](#)
 [2. ORD Annex: Irwin Trust](#)

IV. INTRODUCTION OF ORDINANCES

The following ordinance(s) is presented to the City Council for introduction. No vote or action by the City Council is necessary. However, the City Council may, at its option, vote or take action where appropriate. Ordinances given introduction are generally presented to the City Council for adoption at the next Regular City Council meeting.

1. [O2024-029](#) **Rezoning of Property: 2050 S. 10th Avenue**
Rezone approximately .17 acres located at 2050 S. 10th Avenue from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District (ZONE-42650-2024) (Planning and Neighborhood Services / Community Planning) (Alyssa Linville)

Attachments: [1. P&Z RPT Rezoning of Property: 2050 S. 10th Ave](#)
 [2. ORD Rezoning of Property: 2050 S. 10th Ave](#)
2. [O2024-030](#) **Declare Real Property Surplus and Authorize Sale: 2495 South Sierra Vista Avenue**
Declare vacant City of Yuma owned real property surplus and authorize the sale of the surplus property located at 2495 South Sierra Vista Avenue. (City Attorney) (Richard W. Files)

Attachments: [1. MAP Declare Surplus and Authorize Sale](#)
 [2. ORD Declare Surplus and Authorize Sale](#)

3. [O2024-031](#)**Rezoning of Property: 1651 S. Arizona Avenue**

Approve the rezoning of an approximately 19,166 square foot lot from the Limited Commercial (B-1) District to the General Commercial (B-2) District, located at 1651 S. Arizona Avenue. (ZONE-42890-2024)(Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments:

[1. P&Z RPT Rezoning of Property: 1651 S. Arizona Ave](#)

[2. ORD Rezoning of Property: 1651 S. Arizona Ave](#)

V. FINANCIAL UPDATE

City Administrator and Finance Director to provide information, including but not limited to follow-up to questions and requests from City Council regarding the City's investment portfolio and outlook, Capital Reserve and Contingencies and local revenue trends, as well as discussion and direction regarding the Bond Buy Back program that was presented to City Council on September 4, 2024.

VI. PUBLIC HEARING AND RELATED ITEMS

The following statutory compliance hearing may result in the introduction of Ordinance O2024-032.

1. [O2024-032](#)**Amendment: Ordinance O2022-032**

Pursuant to A.R.S. § 9-462.01, conduct a public hearing to determine compliance with the conditions of approval for Rezoning Ordinance O2022-032, and introduce an ordinance to amend O2022-032 to extend the time to comply with the rezoning conditions. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments:

[1. MAP Amend O2022-032 NWC Avenue 10E and 37th Street Alignment](#)

[2. ORD Amend O2022-032 NWC Avenue 10E and 37th Street Alignment](#)

VII. VARIANCE APPEAL: 963 S. Latisha Way

1. [MC 2024-141](#)

Variance Appeal: VAR-42764-2024 - 963 S. Latisha Way

The City Council will hear and decide this variance appeal in a quasi-judicial capacity as a statutory board of adjustment pursuant to Arizona Revised Statutes (A.R.S.) Section 9-462.06 and Yuma City Code (Y.C.C.) §154-02.02. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments:

[1. HO RPT Variance: 963 S Latisha Way](#)

[2. Hearing Office Minutes](#)

[3. July 11, 2024 Notice of Right to Appeal](#)

[4. July 13, 2024 Appellant's Notice to Appeal](#)

[5. July 23, 2024 Appeal Schedule](#)

[6. Appellee Department of Planning and Neighborhood Services brief in support of the Hearing Officer's decision dated August 19, 2024](#)

VIII. ANNOUNCEMENTS AND SCHEDULING

Discussion and possible action on the following items:

1. Announcements:

City Council report on meetings/events attended – City Council report on issues discussed in meetings/events attended by a City Council representative in their official capacity as the City's representative during the period of September 5, 2024 through September 18, 2024. City Council questions regarding the update must be limited solely for clarification purposes. If further discussion is warranted, the issue will be added to a future agenda for a detailed briefing.

City Council report of upcoming meetings.

City Council request for agenda items to be placed on future agendas.

2. Scheduling:

Motion to schedule future City Council meetings pursuant to Arizona Revised Statutes Section 38-431.02 and the Yuma City Code, Chapter 30.

IX. SUMMARY OF CURRENT EVENTS

This is the City Administrator's opportunity to give notice to the City Council of current events impacting the City. Comments are intended to be informational only and no discussion, deliberation or decision will occur on this item.

X. CALL TO THE PUBLIC

Members of the public may address the City Council on matters within City Council's authority and jurisdiction that are not listed on the agenda during the "Call to the Public" segment of the meeting. All speakers must complete a Speaker Request Form and submit it to City Clerk staff no later than the "Final Call for Speaker Request Forms" is made at the beginning of each meeting.

XI. EXECUTIVE SESSION

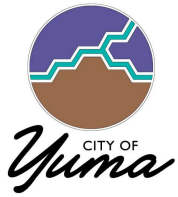
An Executive Session may be called during the public meeting for the purpose of receiving legal advice for items on this agenda pursuant to A.R.S. Section 38-431.03 A (1, 3, 4 and/or 7) and the following items:

A. Discussion, consultation with and/or instruction to legal counsel regarding the following legal matters (ARS 38-431.03 A3, A4 and A7):

- 1) BJA v. COY
- 2) Mohave County, et al. v. BOR, et al.
- 3) Quinn v. Yuma County, et al.
- 4) Aguilera for O.A.
- 5) Jaramillo, et al. v. COY
- 6) Roberts v. COY
- 7) Tortora v. COY
- 8) Candela v. COY
- 9) Blankenship v. Allo, et al.
- 10) Meadows v. COY, et al.
- 11) MacDonald v. COY
- 12) Rodriguez v. COY
- 13) Castillo v. Yuma County, et al
- 14) Claims against the City

ADJOURNMENT

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Department, One City Plaza, Yuma, AZ 85364-1436; (928) 373-5125 or TTY (928) 373-5149.



City of Yuma
City Council Report

File #: MC 2024-133

Agenda Date: 9/18/2024

Agenda #: 1.

Regular Council Meeting Draft Minutes August 7, 2024

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
AUGUST 7, 2024
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:34 p.m.

INVOCATION/PLEDGE

Deacon David Clark, Immaculate Conception Church, gave the invocation. **Thomas Garrity**, Chief of Police, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Morales, Smith, McClendon, Morris, Shoop, Shelton, and Mayor Nicholls
Councilmembers Absent: None
Staffmembers Present: Acting City Administrator, John D. Simonton
Fire Chief, Dusty Fields
Fire Marshal, Kayla Franklin
Director of Planning and Neighborhood Services, Alyssa Linville
Fire Battalion Chief, Alvin Luedtke
Assistant Director of Planning, Jennifer Albers
Various Department Heads or their representative
City Attorney, Richard W. Files
City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS

Recognition of Yuma Fire Department Executive Fire Officer's Certification

Fields recognized **Franklin** for completing the prestigious Executive Fire Officer Program at the National Fire Academy in Emmitsburg, Maryland. The two-year program included online and in-person courses covering leadership, strategic analysis, and organizational assessments.

Yuma Fire Department Update

Fields presented the Yuma Fire Department (YFD) Annual Report for calendar year 2023 as follows:

- Introduction
 - YFD exists to provide professional services, protecting the life and property of its citizens. We ensure the safety and security of those we serve by delivering emergency medical transport, fire prevention, fire suppression, and education to the community.
- Calls for Service
 - 17,968 calls for service – around 50 calls per day, or a little over two calls per hour
 - 13,785 emergency medical calls

- 326 fires
- 9,171 ambulance transports
 - Increased by 131, or 2.3 per week, from 2022
- Staffing – 142.5 personnel
 - Administration – 8
 - Professional Services Division – 3
 - Suppression Division – 124
 - Approved for three new firefighters for Fiscal Year (FY) 2024
 - Minimum staffing per day is 35
 - Three 24-hour shifts with 41 people assigned to each shift
 - Seven fire engines, one ladder truck, five ambulances, and an on-duty Battalion Chief
 - Emergency Medical Division – 2.5
 - Community Risk Reduction - 5
- Community Risk Reduction
 - 1,776 inspections – 2,817 staff hours
 - 36 fire investigations – 184 staff hours
 - 704 pre-fire plan reviews – 867 staff hours
 - 602 construction inspections – 831 staff hours
- Emergency Medical Division
 - Manages ambulance pre-billing reports
 - Works closely with the Medical Director
 - Manages ambulance supplies
 - Ensures department compliance with Arizona Department of Health Services (AZDHS) ambulance certification and transport regulations
 - Manages the quality assurance process
 - Works closely with the Professional Services Division and the Medical Director to ensure patient care meets standards and spot trends for training opportunities
- Professional Services Division
 - Conducted three firefighter recruitments
 - Promptly filling vacancies reduces overtime and prevents firefighter fatigue
 - Conducted 16 continuing education courses
 - Managed Fire Engineer, Fire Captain, and Battalion Chief promotion process
 - Conducted Engineer and Captain Academies
 - Handles reviews for complaints, and shares findings with leadership after investigations are complete
 - Department training – total of 26,227 hours
- Accomplishments
 - Achieved our fifth accredited by the Commission on Fire Accreditation International
 - YFD has been accredited since 2003
 - Only 320 accredited agencies internationally
 - Established independent medical direction from International Medical Direction and installed medication dispensers at each fire station
 - Coordinated an inaugural regional Fire Academy with Arizona Western College (AWC)
 - Protective gear purchased for each cadet through a grant from AWC, saving the City a total of \$62,000
 - 11 vacancies have been filled through the fire Academy

- Received three new ambulances and delivery of one fire engine
 - The lead time (period between purchase and delivery) for YFD apparatus is over three years
- Enhanced social media profile with Instagram and podcast
 - Has also continued with traditional media contributions to newspaper and television
- Restructured Community Risk Reduction Division
 - Eliminated a Plans Examiner position and replaced it with Senior Fire Inspector and Assistant Fire Marshal positions
- Thermal Imaging Camera Program
 - Replacement of existing bulky cameras, which were limited to one per apparatus, with newer hand-held cameras for each firefighter on an apparatus
- Opportunities for Growth
 - Comprehensive study for administration and operation staffing
 - Despite rapid growth over the past decade, administrative staffing levels have remained unchanged
 - Staffing for additional ambulance
 - An ambulance was purchased several years ago with American Rescue Plan Act (ARPA) funds but lacks staffing due to budget constraints
 - Would help address higher response times in Area 5 and Area 7, which jeopardize YFDs ability to meet mandated Certificate of Need response times
 - Safety Officer for each shift
 - YFD currently relies on an on-call Safety Officer to oversee crews during emergency situations
 - The on-call Safety Officer arrives on average 20.09 minutes after the start of dangerous operations, which is well after the critical safety oversight is needed
 - Recruitment
 - Three firefighter recruitment processes, resulting in 16 new hires
 - Despite innovative efforts to attract more applicants, YFD has struggled to generate sufficient interest in open positions
 - The regional Fire Academy is the most successful recruitment effort, but the process is lengthy, taking about 20 weeks; in comparison, recruitment of trained firefighters and Emergency Medical Technicians is an eight-week process
 - Rehab unit
 - Current rehab unit is a 1990 delivery van
 - Despite applying for several grants, YFD has not received funding for a new rehab unit
 - The current rehab unit is too small to accommodate all staff during large incidents, especially in the summer, and lacks restroom facilities
 - The estimated cost of a vehicle that would meet YFD's needs is around \$750,000
- Budget and Funding
 - FY 2024 Budget - \$21,905,976
 - 3% decrease from FY 2023 budget of \$22,628,221
- Fire Department funding is comprised of:
 - General Fund
 - Ambulance revenue goes to the General Fund
 - In the reporting period ending June 2023, ambulance services generated \$7.25 million in revenue, which is used to pay for salaries totaling \$4.1 million

- Public Safety Tax
 - Restricted to facilities and equipment
- Impact Fees
 - New facilities and equipment
- Equipment Replacement Fund
 - Fire trucks and ambulances
- Grants
 - YFD received \$212,000 in federal and state grants in 2023
 - \$70,000 from the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant to purchase a breathing air compressor for Fire Station #2
 - \$40,000 from the Arizona Department of Forestry Management for a utility vehicle to respond to wildland fire calls
 - \$40,000 from the Arizona Governor's Office of Highway Safety for electric extrication equipment
 - \$62,000 for protective gear for all cadets in the AWC Fire Academy
- Community Outreach
 - Social media posts
 - 572 social media posts reached 328,000 people
 - Classes taught in the community
 - 43 classes, equal to 104 hours of staff time
 - Stop the Bleed, Compression Only CPR, and fire extinguisher classes
 - Public appearance requests
 - 141 public appearances including community events, block parties, and water spray downs at elementary schools
- Significant Events
 - Migrant transfer site at Public Safety Training Facility
 - Successfully processed and relocated over 100 migrants released from the local Border Patrol facility
 - Rabbit Fire in Riverside County
 - A crew of four joined fire departments from the Imperial Valley to form a strike team
 - Each strike team is lead by a strike team leader – a chief officer responsible for maintaining accountability and ensuring the safety of the team

Fields wrapped up his presentation by giving an update on the strike team deployed to Chico, California on July 26th for the Park Fire. The crew will return to Yuma on August 12th. The fire has consumed over 420,000 acres and is at 34% containment, with 6,627 personnel actively assigned to the event.

Discussion

- Since the opening of Fire Station #7, response times in Area 7 have dropped by one minute; on average, YFD is on-scene for approximately 20 minutes medical calls (**Mayor Nicholls/Fields**)
- Response times remain high in southeast Yuma because there is only one ambulance on that side of the city; if that ambulance has been deployed and dispatch receives another call for service, a ambulance would have to travel from a more distant area of the city, which might result in a response times as high as 15 minutes (**Smith/Fields**)

- Ideally the additional ambulance would be staffed 24/7 to back up Medic 5, but in the interim creative staffing during high-demand hours may help alleviate the long response times (**Smith/Fields**)
- Seven or eight employees would be needed to fully staff the ambulance; there are three two-person shifts, plus the need for coverage for time off (**Smith/Fields**)
- If response times fall below the requirements set by AZDHS, YFD would be required to submit a plan to correct the situation (**Smith/Fields**)
- With regard to YFD's accreditation, any failing areas must be identified and a plan established to correct the failure in order to remain accredited (**McClendon/Fields**)
- The contract for the staffing study has been finalized, and once it is signed the draft report should be complete within 180 days; the recommendations made in the report will most likely take multiple years to implement (**McClendon/Fields**)
- When staff is pulled from a fire station to do an inspection, a fire truck from another station will cover that area; it is possible they might be pulled away from the inspection to respond to a call during a busy period (**McClendon/Fields**)
- Additional staffing is needed in Administration; an Assistant Fire Chief position has been requested, but the staffing study might suggest a different strategy that would better serve the City (**McClendon/Fields**)
- If staffing could not be increased, non-critical programs such as accreditation might be discontinued (**Morales/Fields**)
- Last year ambulance revenues were sufficient to cover costs, and the remaining \$820 thousand went to the General Fund; in previous years, ambulance services was operating at a deficit (**Morales/Fields**)
- While YFD's budget decreased by 3% from FY 2023 to FY 2024, it increased 11% in FY 2025 (**Morales/Fields**)
- The staffing study will be very comprehensive and specific to the City of Yuma; in addition to analyzing YFD documents such as the Fire Services and Facilities Plan and the 2022-2027 Strategic Plan, the vendor will meet with YFD staff, City Council, the City Administrator, the Finance Director, the Human Resources Director, and anybody else YFD interacts with (**Morris/Fields**)
- In the winter an extra ambulance will be added to Fire Station #3 to make sure YFD is meeting all response times; otherwise, the ambulance is sitting empty (**Morris/Fields**)
- Only about 10% of fires in 2023 required an outside investigator from Administration because the cause of most fires is easily determined by the company officer that shows up on scene (**Morris/Fields**)

Overview of the Outdoor Lighting Code Update

Linville presented the following overview of the proposed outdoor lighting code update:

- Current Code
 - The Zoning Code was initially adopted in 1952
 - Lighting provisions were added to the code in 1988
 - Identified low-pressure sodium as the preferred lighting source
 - Specified minimum shielding requirements
 - Identified lighting minimums in parking lots
 - Identified lighting requirements for off-site signs (billboards)
 - No updates have been made since 1988

- Challenges
 - Current code is outdated
 - Provides no guidance for the installation of modern lighting
 - Have been utilizing a policy to address modern lighting
 - Current code provides little flexibility in the way of LED lighting
 - Current code conflicts with other regulations
- Community Outreach
 - Conducted in-person round table discussions to review the current code and identify areas in need of updating
 - 15 active local stakeholders (contractors, engineers, and suppliers)
 - Provided stakeholders with a draft of the proposed changes based on their initial input
 - Solicited feedback and further discussion
- Proposed Amendment
 - Adds provision for LED lighting
 - Maximum color temperature of 3,000 kelvin
 - Establishes a process to allow deviations from the lighting standards
 - Updates the shielding requirements for lighting to address light trespass
 - Commercial and residential
 - Updates the lighting requirements for parking lots
- Next Steps
 - August 26th – Planning and Zoning Commission
 - October 2nd – City Council Introduction
 - October 16th – City Council Adoption
 - November 16th – Effective Date

Discussion

- The stakeholder group recommended a 12-foot pole height within 25 feet of a residential property, which would require that poles be placed closer together to provide adequate lighting; developers could place retention areas adjacent to residential properties to create a buffer in order to avoid the 12-foot pole requirement (**Mayor Nicholls/Linville**)
- The current standard for lighting in parking lots is one candle maintained; the proposed update would reduce this requirement to 0.5 candle, with a minimum 0.2 candle in any given space (**Mayor Nicholls/Linville**)
- The issue of lighting in City parks is independent of the outdoor lighting update being presented today, which applies only to residential and commercial development (**Shelton/Mayor Nicholls/Simonton**)

I. MOTION CONSENT AGENDA

Motion Consent Agenda Item C.10 – Final Plat: Cielo Verde Unit 4 Phase II Subdivision (Approve the final plat for the Cielo Verde Unit 4 Phase II Subdivision, located at the corner of Albatross Drive and E. 35th Street) (SUBD-040902-2024) (Plng & Nbhd Svcs/Cmty Plng)

Motion Consent Agenda Item C.11 – Final Plat: Cielo Verde Unit 4 Phase III Subdivision (Approve the final plat for the Cielo Verde Unit 4 Phase III Subdivision, located at the corner of S. Eagle Drive and E. 36th Street) (SUBD-042903-2024) (Plng & Nbhd Svcs/Cmty Plng)

Motion Consent Agenda Item C.12 – Final Plat: Cielo Verde Unit 6 Phase II Subdivision (Approve the final plat for the Cielo Verde Unit 6 Phase II Subdivision, located at the corner of Ostrich Drive and E. 35th Place. (SUBD-040903-2024) (Plng & Nbhd Svcs/Cmty Plng)

Morales declared a conflict of interest on Motion Consent Agenda Items C.10, C.11, and C.12, and left the dais.

Discussion

- The applicant has agreed to all conditions of approval for this development (**Mayor Nicholls/Linville**)

Motion (McClendon/Morris): To approve Motion Consent Agenda Items C.10, C.11, and C.12 as recommended. Voice vote: **approved** 6-0-1, **Morales** abstaining due to conflict of interest.

Morales returned to the dais.

Motion Consent Agenda Item C.6 – Cooperative Purchase Agreement: Emergency Preparedness and Safety Equipment (purchase of two fourier-transform infrared spectrometers at a cost of \$127,481.89) (CPA-25-020) (YFD)

Discussion

- This is a first-time purchase of equipment that helps to identify unknown substances to determine if they might be narcotics, explosives, or other potentially hazardous materials (**Smith/Luedtke**)
- There is not a firm lifespan established for this item, but equipment of this type tends to run for at least a decade; extended warranty coverage was included in the grant for the purchase of this item to help extend its lifespan (**Smith/Luedtke**)

Motion Consent Agenda Item C.5 – Cooperative Purchase Agreement: Fire Service Apparatus (purchase of one Ward Apparatus 2024 Ford 450 at a cost of \$254,949.19) (CPA-25-015) (YFD)

Discussion

- This apparatus will be located at Fire Station #1 and will be dispatched on medical calls in place of the ladder truck; this will save wear and tear on the ladder truck to help extend its lifespan (**Morris/Fields**)

Motion (Morales/Smith): To approve the Motion Consent Agenda as recommended, with the exception of Items C.10, C.11, and C.12, which were approved through a separate vote. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meetings:

Special Council Meeting Minutes	May 14, 2024
Regular Council Meeting Minutes	June 26, 2024
Regular Council Worksession Minutes	July 16, 2024

B. Executive Session

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Atty)

C. Approval of Staff Recommendations

1. Approve a Series #10: Beer and Wine Store Liquor License application submitted by Maria Lopez, agent for Estrellita Meat Market located at 2100 S. 4th Avenue #1. (LL24-09) (Admn/Clk)
2. Approve a Series #12: Restaurant Liquor License application submitted by Jose Rios, agent for Gozen located at 2355 S. 4th Avenue. (LL24-08) (Admn/Clk)
3. Approve a Series #09S: Liquor Store Sampling Privileges Liquor License application submitted by Delon Abahad, agent for Yuma Liquor located at 2411 S. 4th Avenue. (LL24-07) (Admn/Clk)
4. Authorize the purchase of rye grass seed to the lowest responsive and responsible bidder, Nutrien Ag Solutions, Tucson, Arizona for an expenditure of \$137,606.27 (including tax). (RFB-24-261) (Pks & Rec/Purch)
5. Authorize the purchase of one Ward Apparatus 2024 Ford 450, utilizing the cooperative purchase agreement originated by the Houston-Galveston Area Council, at a cost of \$254,949.19 to: Republic EVS, Huntington Beach, California. (CPA-25-015) (YFD/Purch)
6. Authorize the purchase of two fourier-transform, infrared spectrometers (FTIR) with extended warranty, utilizing the cooperative purchase agreement originated by the Houston-Galveston Area Council, at a cost of \$127,481.89 to: FarrWest, Schertz, Texas. (CPA-25-020) (YFD/Purch)
7. Authorize the Sole Source purchase of Technical Rescue Equipment, at a cost of \$315,922.38; to: Atlas Devices, Chelmsford, Massachusetts. (SS-25-019) (YFD/Purch)
8. Authorize the retirement and transfer of ownership of one Yuma Police Department canine to the assigned hander. (YPD)
9. Ratify settlement of the lawsuit *Francisca Solorio v. City of Yuma, et al.* Yuma County Superior Court Case No. S1400CV202300577. (Atty)
10. Pulled for separate consideration; see above.
11. Pulled for separate consideration; see above.
12. Pulled for separate consideration; see above.

II. RESOLUTION CONSENT AGENDA

Motion (Smith/Morales): To adopt the Resolution Consent Agenda as recommended.

Bushong displayed the following title:

Resolution R2024-040

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with Feliciano Lopez and Mallappa Neelappa for the real property located at 9759 S. Avenue 9E (the property is currently developed and features a single-family residence) (Plng & Nbhd Svcs/Cmty Plng)

Roll call vote: **adopted** 7-0.

III. INTRODUCTION OF ORDINANCES

Ordinance O2024-018 – Acceptance of Historic Properties (acquire ownership of the Sanguinetti House Museum and Gardens, Jack Mellon House, and the Molina Block from the Arizona Historical Society) (City Admn)

Discussion

- The City will work with the Yuma County Historical Society to implement an operating agreement similar to those currently in place with the Yuma Crossing National Heritage Area for the Yuma Territorial Prison and the Colorado River State Historic Park (**McClendon/Simonton**)
- This year will serve as a test year, and the City may need to make adjustments going into next fiscal year; this will be addressed during budget discussions (**McClendon/Simonton**)

Bushong displayed the following titles:

Ordinance O2024-018

An ordinance of the City Council of the City of Yuma, Arizona, authorizing the acceptance of certain historic properties (pursuant to Senate Bill 1441 approved by Governor Hobbs on March 25, 2024) (City Admn)

Ordinance O2024-027

An ordinance of the City Council of the City of Yuma, Arizona, amending the list of conditional uses within the General Commercial Zoning District in Chapter 154 of the Yuma City Code (to include cemeteries on a minimum area of 15 acres) (Plng & Nbhd Svcs/Cmty Plng)

IV. PUBLIC HEARING

Mayor Nicholls opened the public hearing at 6:52 p.m.

MC 2024-110 – Annexation Area No. ANEX-42924-2024: Irwin Trust (public hearing to consider the annexation of two properties and the adjacent 28th Street right-of-way) (Plng & Nbhd Svcs/Cmty Plng)

Albers presented the following information:

- The 29.4 acre annexation area is in the vicinity of E. 28th Street and S. Rebecca Drive
- The annexation area contains undeveloped properties respectively owned by Irwin Catherine H Trust 4-09-86 and Irwin Testamentary Trust
- Subject of Pre-Annexation Development Agreement – Resolution R2007-15 adopted March 16, 2007
- General Plan land use designation: Industrial
- County Zoning: Heavy Industrial (HI-1)
- Zoning upon Annexation: Heavy Industrial (HI)
- Infrastructure: Future connections to City utilities will be required
- Pending receipt of signed annexation petitions, an ordinance is anticipated to be presented to City Council on September 4th for introduction

Motion (Smith/McClendon): To close the Public Hearing. Voice vote: **approved** 7-0. The Public Hearing closed at 6:54 p.m.

Discussion

- The property is intended for industrial development, and there has been discussion about developing the property in the near future (**Mayor Nicholls/Albers**)

V. VARIANCE APPEAL: 9616 E. 33RD LANE

Motion (Morales/Morris): To recess the August 7th City Council meeting and reconvene as a quasi-judicial body sitting as a statutory Board of Adjustment to hear the Variance Appeal on property located at 9616 E. 33rd Lane. Voice vote: **approved** 7-0. City Council Recessed at 6:56 p.m.

Please see Variance Appeal Minutes, that cover the Variance Appeal, on the City of Yuma website

City Council Reconvenes at 7:46 p.m.

VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

Motion (Smith/Morales): To appoint Katrina Lozano to the Housing Authority of the City of Yuma with a term expiration of December 31, 2025. Voice vote **approved** 7-0.

Announcements

Morales, Smith, McClendon, Shelton, Morris, and Mayor Nicholls reported on the following meetings attended/upcoming events:

- Greater Yuma Economic Development Corporation (GYEDC) Quarterly Investor Luncheon
- Yuma Metropolitan Planning Organization Board Meeting
- Summer Mural Ribbon Cutting at Joe Henry Optimist Center
- GYEDC Branding and Attraction Committee Meeting

- Interagency Soccer Tournament at Caballero Park
- Yuma Filming Industry Update
- Boys and Girls Club Back to School Shopping
- Back to School Rodeo
- Cocopah Tribal Council Swearing-In Ceremony
- Americans with Disabilities Act (ADA) Commission Meeting
- Ribbon Cutting for Home Goods at Yuma Palms Regional Center
- Attainable Housing Committee Meeting
- Briefing at Yuma Proving Ground (YPG) with Governor Katie Hobbs
- Recognition of Rick Ramirez at YPG for Assistance to Yuma Police Officer
- 4FrontED Board Meeting
- Relief and Appointment Ceremony at Marine Corps Air Station Yuma for Marine Aviation Weapons and Tactics Squadron One (MAWTS-1)
- Arizona League of Cities and Towns Executive Committee Board Meeting
- Donation of Fire Engine to the Town of Wellton
- Yuma County Chamber of Commerce Candidate Forum
- Elevate Southwest Board Meeting
- Canada Arizona Business Council Foreign Direct Investment (FDI) Discussion

Scheduling

Motion (Morales/Smith): That a Special Council Meeting be scheduled for August 13, 2024, at 5:30 p.m. for the purpose of canvassing the 2024 Primary election and posting of an agenda in accordance with state law. Voice vote: **approved 7-0.**

VII. SUMMARY OF CURRENT EVENTS

Simonton reported the following events:

- September 7th – Father Daughter Ball at the Pivot Point Conference Center

Simonton and **Mayor Nicholls** recognized **Bushong** for receiving the Arizona Municipal Clerks Association Clerk of the Year award. **Bushong** expressed gratitude for her team and the City's leadership for their support.

VIII. CALL TO THE PUBLIC

Cynthia Tovar, City resident, spoke regarding changes to City park hours and expressed concern that the penalty for being in a park after hours is excessive.

Charlene Young, City resident, spoke regarding the recently adopted Call to the Public guidelines and requested that City Council reconsider allowing speakers to appear via Zoom.

IX. EXECUTIVE SESSION/ADJOURNMENT

Motion (Smith/Morris): To adjourn the meeting to Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 8:09 p.m.

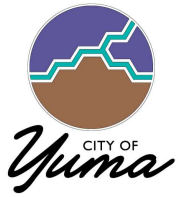
Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

DRAFT

Approved at the City Council Meeting of: _____ City Clerk: _____
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City of Yuma
City Council Report

File #: MC 2024-134

Agenda Date: 9/18/2024

Agenda #: 2.

Variance Appeal - Board of Adjustments Draft Minutes August 7, 2024

MINUTES
VARIANCE APPEAL – BOARD OF ADJUSTMENT
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
AUGUST 7, 2024
5:30 p.m.

Mayor Nicholls explained that City Council will transition to a quasi-judicial body sitting as the statutory Board of Adjustment to hear Variance Appeal/VAR-42542-2024 for property at 9616 E. 33rd Lane. **Mayor Nicholls** called for a motion to recess the regular City Council meeting.

Motion (Morales/Morris) To recess the City Council Meeting and reconvene as a quasi-judicial body sitting as a statutory Board of Adjustment to hear a Variance Appeal. Voice Vote: 7-0.

The regular City Council meeting recessed at 6:56 p.m.

CALL TO ORDER

Chairman Nicholls called the Variance Appeal/VAR-42542-2024 to order at 7:05 p.m.

ROLL CALL

Boardmembers Present: Morales, Smith, McClendon, Morris, Shoop, Shelton, and Mayor Nicholls
Boardmembers Absent: None
Staff Representation: Acting City Administrator, John D. Simonton
Board’s Legal Counsel, Steven W. Moore
Principal Planner, Amelia Domby
Other various department representatives
City Clerk, Lynda Bushong

Chairman Nicholls turned the dais over to Attorney Steven W. Moore, legal advisor to the Board of Adjustment (Board) during the appeal process.

Moore presented the following:

- Variance Appeal VAR-4252-2024 was requested by Appellant
- The variance request is to increase the allowable fence height from 30 inches to seven feet in the Recreational Vehicle Subdivision District
- The property is located at 9616 East 33rd Lane
- State law and the Yuma City Code require all four of the following conditions to be met for a variance:
 - There is a special circumstance or condition that applies to the property, building, or use referred to in the application that does not apply to most other properties in the district
 - The special circumstance was not created or caused by the property owner or applicant
 - Granting the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity under identical zoning regulations
 - Granting the variance will not be materially detrimental to any person residing or

working in the vicinity, to adjacent property, to the neighborhood, or to public health, safety, and general welfare

Mohamad Hasan, Appellant, explained that he was notified of a potential issue by City staff who came to complete an inspection inside his house and noticed the steel bars being installed. He believes that a variance is not required in this situation because he has not constructed anything, and the steel bars provide for full visibility into his property and are only meant as a criminal deterrent. The surrounding neighbors told him they do not have any problem with the change to his property. He reiterated that he does not see it as raising the height of the fence as it is not solid and does not block visibility. He pointed out that every house in his neighborhood has at least one code violation, and questioned why those violations are being ignored.

Domby presented the following:

- This is an appeal of the hearing officer's denial of the variance request to increase the maximum fence height for the property located at 9616 East 33rd Lane, which is within the Recreational Vehicle Subdivision District
- The fence constructed on the property exceeds the 30-inch maximum height set forth in the zoning code; the zoning code does not specify fencing materials
- During the variance process, staff notified neighbors within 300 feet of the subject property
- A neighborhood meeting was held on site on April 18th; 17 neighbors were in attendance
- While a few neighbors expressed that they do not oppose the variance request, the majority of the neighbors were opposed to the request; the neighbors who opposed the variance request cited traffic, property access, and safety concerns
- Staff received correspondence both in favor of and opposed to the variance request
- The property owner continued to construct the fence after the stop work notice was posted
- During the variance process, staff analyzed the variance request and the applicant's responses to the four conditions
- Staff did not find that all four conditions were met, as indicated in the brief filed with the City Clerk's Office on June 20th
- State law and the Yuma City Code forbids the hearing officer from granting a variance if all four conditions are not met
- The subject property is similar in size and shape and is developed in a similar way as most other properties within the zoning district
- On May 9th the hearing officer held a hearing on the variance request; staff filed a report with the hearing officer recommending denial of the request
- After taking testimony on the variance application, the hearing officer denied the variance
- Staff requests that the Board affirms the decision if the hearing officer

Discussion

- The City has not approved any similar variance requests within the zoning district or in its general vicinity (**Morris/Domby**)
- The Appellant is not requesting to increase the height of the fence as he does not believe the addition of steel bars to his fence qualifies as construction as it is not solid and does not block visibility (**Shelton/Hasan**)
- The Appellant did not stop work on the fence after the stop work notice was posted because it did not make sense to him and he did not believe he was violating the zoning code (**Shelton/Hasan**)

- The objections to the requested variance cited safety, emergency personnel accessing the property, and the appearance of the fence (**Shelton/Domby**)
- The maximum fence height applies to any fence, regardless of the material the fence is constructed from (**Mayor Nicholls/Domby**)
- The Appellant did not understand that he was able to bring witnesses or documentation from those who were in favor of the variance to tonight’s hearing (**Mayor Nicholls/Hasan**)
- The existing cinderblock wall is seven-foot high (**Mayor Nicholls/Hasan**)
- There is a two-inch gap between the property line and the seven-foot fence (**McClendon/Hasan**)
- While the Board could continue this hearing to allow the Appellant to provide letters of support or bring witnesses to testify on his behalf, the neighbor’s comments and any written correspondence are included in the meeting packet; additionally, their testimony would have no bearing on the four required variance conditions (**Shelton/Mayor Nicholls/Morris/ Moore**)
- Because most of the residents in the vicinity of the property are winter visitors and are not in Yuma at this time to provide input, their opinions – either for or against – have not been taken into consideration (**Morales**)
- While the zoning code does not provide a definition of a fence, the structure installed by the Appellant does appear to be a fence; additionally, none of the four variance conditions were met and the fence could negatively impact safety by impeding access and visibility (**Morris**)
- Even if the Board were to find that the fence is not materially detrimental, the remaining three conditions have not been met; all four conditions must be met to approve a variance under State law and the Yuma City Code (**Mayor Nicholls/Moore**)
- Assuming that the structure installed is indeed a fence and the variance case applies, the Appellant confirmed he is not able to demonstrate that the four variance conditions have been met (**Morris/ Hasan**)

Motion (Morris/Smith):

I find that one or more of the four necessary variance conditions were not present, therefore I move to affirm the hearing officer’s denial of the Variance VAR-42542-2024 for the property located at 9616 East 33rd Lane.

Roll Call vote: **affirmed (Hearing Officer’s denial upheld) 7-0.**

Mayor Nicholls reconvened the regular City Council Meeting at 7:46 p.m.

Lynda L. Bushong, City Clerk

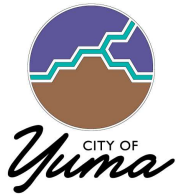
APPROVED:

Douglas J. Nicholls, Mayor

APPROVED AS TO FORM:

Steve Moore, Counsel for Board

Approved at the City Council Meeting of: _____ City Clerk: _____
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City of Yuma

City Council Report

File #: MC 2024-135

Agenda Date: 9/18/2024

Agenda #: 1.

<p>DEPARTMENT: City Administration</p> <p>DIVISION: City Clerk</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Liquor License: Sun Of A Gun Cigars

SUMMARY RECOMMENDATION:

Approve a Series #06: Bar Liquor License application submitted by Katherine Espinal, agent for Sun Of A Gun Cigars located at 1651 S. Arizona Avenue. (LL24-14) (City Administration/City Clerk) (Lynda L. Bushong)

STRATEGIC OUTCOME:

Approval of this Liquor License aligns with City Council's Respected and Responsible strategic outcome as it provides notification to the public and transparency of City business.

REPORT:

Katherine Espinal, agent for Sun Of A Gun Cigars located at 1651 S. Arizona Avenue, has applied for a Series #06: Bar Liquor License.

The subject property has been posted for the required 20-day period and no arguments in favor of or opposed to the issuance of the license have been received.

The application has been reviewed by Planning & Neighborhood Services, the Police Department, the Fire Department, and Business Licensing.

Upon City Council's recommendation, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

-		
To total; right click number & choose "Update Field"		

FISCAL IMPACT STATEMENT:

Application Fee: \$250.00

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

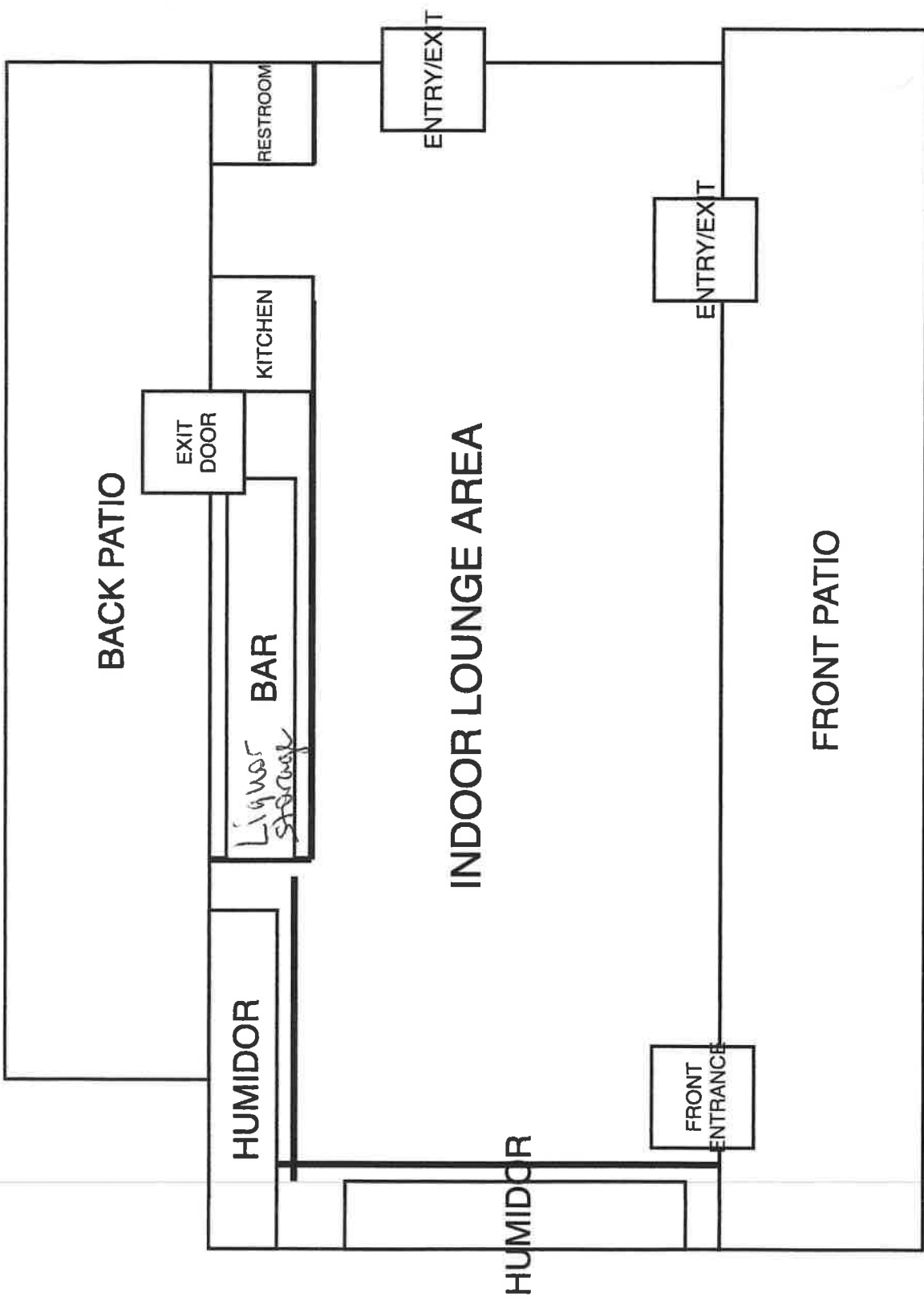
- 1. Series #06: Bar Liquor License application

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

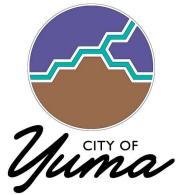
- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024

Sun of a Gun Cigars
1651 S. Arizona Ave, Yuma AZ 85364



1,700 SQFT



City of Yuma

City Council Report

File #: MC 2024-142

Agenda Date: 9/18/2024

Agenda #: 2.

<p>DEPARTMENT: City Administration</p> <p>DIVISION: City Clerks Office</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:
Liquor License: Yuma Market

SUMMARY RECOMMENDATION:

Approve a Series #10 Beer and Wine Store Liquor License application submitted by Haitham Yaldo, agent for Yuma Market, located at 890 E. 24th Street (LL24-12). (City Administration/City Clerk) (Lynda L. Bushong)

STRATEGIC OUTCOME:

Approval of this Liquor License aligns with City Council's Respected and Responsible strategic outcome as it provides notification to the public and transparency of City business.

REPORT:

Haitham Yaldo, agent for Yuma Market located at 890 E. 24th Street, has applied for a Series #10: Beer and Wine Store Liquor License.

The subject property has been posted for the required 20-day period and no arguments in favor of or opposed to the issuance of the license have been received.

The application has been reviewed by Planning & Neighborhood Services, the Police Department, the Fire Department, and Business Licensing.

Upon City Council's recommendation, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

-		
To total; right click number & choose "Update Field"		

FISCAL IMPACT STATEMENT:

Application fee of \$250.00

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

- 1. Series #10 Beer and Wine Store Liquor License application

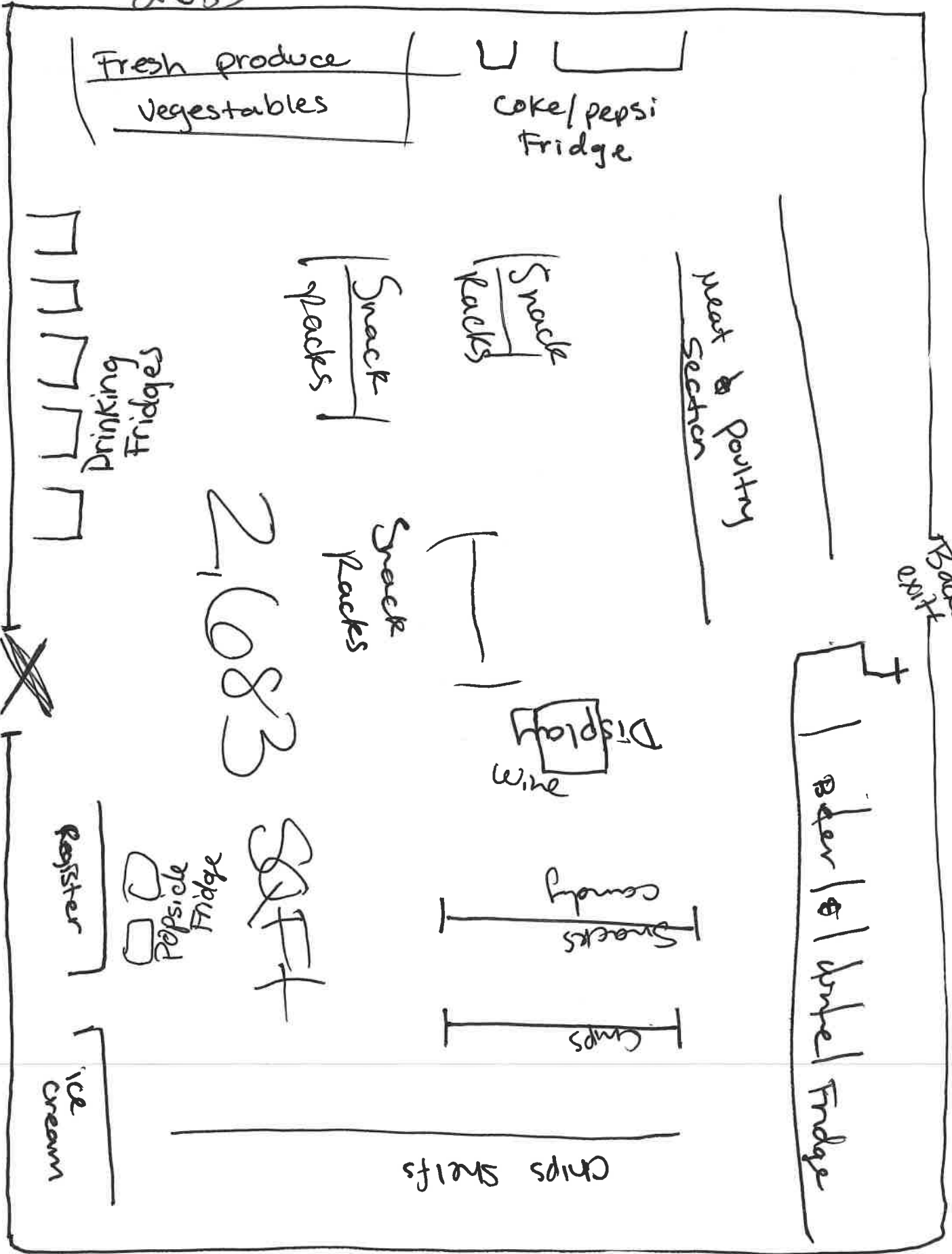
IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

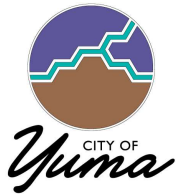
Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024

Total Square Footage
2683

24 JUL 22 AM 11:48 AZD LLC



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City of Yuma

City Council Report

File #: MC 2024-136

Agenda Date: 9/18/2024

Agenda #: 3.

<p>DEPARTMENT: City Administration</p> <p>DIVISION: City Clerk</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Temporary Extension of Premises/Patio Permit: The Chile Pepper

SUMMARY RECOMMENDATION:

Approve a Temporary Extension of Premises/Patio Permit application submitted by Andrea Huff, agent for The Chile Pepper located at 1030 W. 24th Street. (EP24-02) (City Administration/City Clerk) (Lynda L. Bushong)

STRATEGIC OUTCOME:

Approval of this Temporary Extension of Premises/Patio Permit aligns with City Council's Respected and Responsible strategic outcome as it provides notification to the public and transparency of City business.

REPORT:

Andrea Huff, agent for The Chile Pepper located at 1030 W. 24th Street, has applied for a Temporary Extension of Premises/Patio Permit. The requested extension is for a Special Event/70th Anniversary Festival to take place on October 12, 2024, from 7:00 a.m. to 11:59 p.m.

The application has been reviewed by Planning & Neighborhood Services, the Police Department, the Fire Department, and Business Licensing.

Upon City Council's recommendation, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

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To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Application Fee: \$20.00

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

Temporary Extension of Premises/Patio Permit application

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024

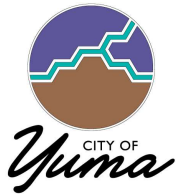
****Please Note: Event parking located on 23rd st.****



Legend for Map of Event 10/12/2024 Site Plan:

1. Main Event Entrance Gate and emergency exit, ticket booth & Security checkpoint with 1 portable fire extinguisher and 1 first aid kit & AED
 - a. Crowd control fencing for main entry line formation.
2. Event Stage with 1 portable fire extinguisher
3. Audio/visual booth with 1 portable fire extinguisher and 1 first aid kit & AED
4. x6 Portable shades/tents for local outreach organizations
5. Outdoor dining area with tables and chairs.
6. Beverage area
7. Portable toilets
8. Food area, located under a parking cover.
9. Interior Chile Pepper restaurant with 1 first aid kit & AED.
10. North emergency exit push out gate.
11. West emergency exit push out gate.

****Please Note: Parking is located on 23rd st.****



City of Yuma

City Council Report

File #: MC 2024-137

Agenda Date: 9/18/2024

Agenda #: 4.

<p>DEPARTMENT: City Administration</p> <p>DIVISION: City Clerk</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Permanent Extension of Premises/Patio Permit: Texas Roadhouse

SUMMARY RECOMMENDATION:

Approve a Permanent Extension of Premises/Patio Permit application submitted by Lauren Merrett, agent for Texas Roadhouse located at 594 E. 16th Street. (EP24-03) (City Administration/City Clerk) (Lynda L. Bushong)

STRATEGIC OUTCOME:

Approval of this Permanent Extension of Premises/Patio Permit aligns with City Council's Respected and Responsible strategic outcome as it provides notification to the public and transparency of City business.

REPORT:

Lauren Merrett, agent for Texas Roadhouse located at 594 E. 16th Street, has applied for a Permanent Extension of Premises/Patio Permit. The requested extension will provide new interior dining.

The application has been reviewed by Planning & Neighborhood Services, the Police Department, the Fire Department, and Business Licensing.

Upon City Council's recommendation, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

.			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Application Fee: \$20.00

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

Permanent Extension of Premises/Patio Permit application

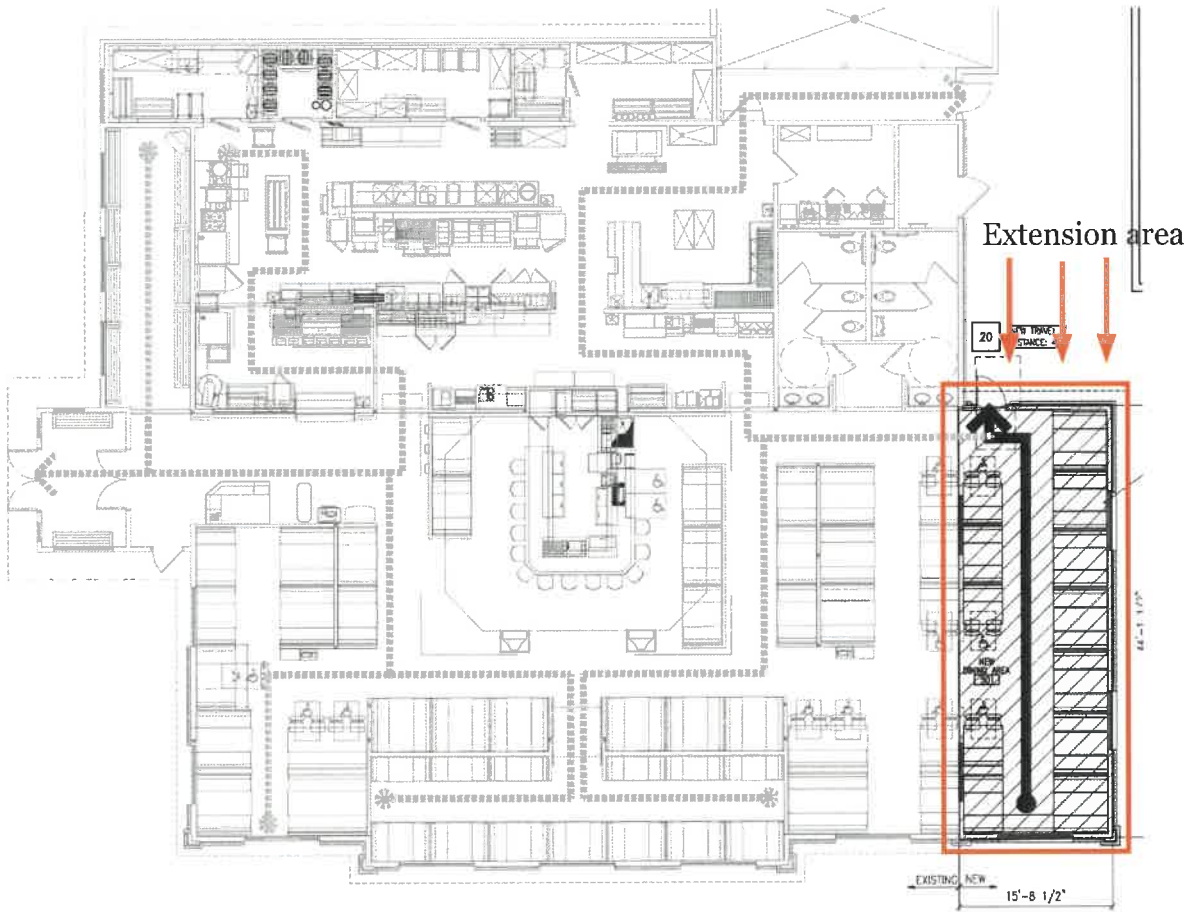
IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

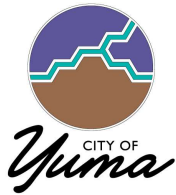
- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



TEXAS ROADHOUSE (ADDITION)
594 EAST 16TH STREET
YUMA, AZ 85364





City of Yuma

City Council Report

File #: MC 2024-138

Agenda Date: 9/18/2024

Agenda #: 5.

	STRATEGIC OUTCOMES	ACTION
DEPARTMENT: Finance	<input checked="" type="checkbox"/> Safe & Prosperous <input type="checkbox"/> Active & Appealing <input type="checkbox"/> Respected & Responsible	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance - Introduction
DIVISION: Procurement	<input type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing

TITLE:

Bid Award: Colorado River Interceptor Manhole Replacements Phase I

SUMMARY RECOMMENDATION:

Authorize a construction services contract for the Colorado River Interceptor Manhole Replacements Phase I Project to the lowest responsive and responsible bidder in the amount of \$1,356,606.90 to TF Contracting Services, Phoenix, Arizona. (Engineering - RFB-25-012) (David Wostenberg/Robin R. Wilson)

STRATEGIC OUTCOME:

This item supports the City Council’s strategic outcome of Safe and Prosperous. The construction of the Colorado River Interceptor Manhole Replacement Phase I project will improve and extend the life of the sewer infrastructure along the Colorado River levee.

REPORT:

The project consists of the replacement of old sewer manholes with polymer manholes and polymer insert manholes for the first phase of the Colorado River Sewer Interceptor. In addition, the project includes the repair of a damaged sewer main with Cured-in-Place-Pipe (CIPP).

Three bids were received by the following general contractors:

TF Contracting	\$1,356,606.90
Gutierrez Canales Engineering	\$1,761,575.38
DPE Construction Inc.	\$1,787,500.00

Approving this motion authorizes the City Administrator to execute the described contract with TF Contracting. The project is anticipated to begin in late October and to be completed within 120 calendar days.

The Colorado River Sewer Interceptor Manhole Replacement project is planned in three phases: Phase I consists of eight manholes from 175 North Main Street to the 4th Avenue Bridge; Phase II consists of twelve manholes from the 4th Avenue Bridge to 27th Drive; Phase III consists of twelve manholes from 27th Drive to Figueroa Avenue.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$1,356,606.90	BUDGETED:	\$ 2,600,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$1,356,606.90			
431- Wastewater 0036-SEWER8			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Sufficient budget authority is provided in the FY 2025 City Council approved budget. Total budget amount is for Phase I and Phase II.

ADDITIONAL INFORMATION:

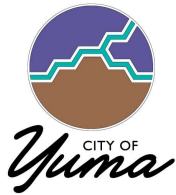
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

None

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



City of Yuma

City Council Report

File #: MC 2024-139

Agenda Date: 9/18/2024

Agenda #: 6.

<p>DEPARTMENT: Finance</p> <p>DIVISION: Procurement</p>	<p>STRATEGIC OUTCOMES</p> <p><input checked="" type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:
Sole Source Contract: Hydrogen Peroxide

SUMMARY RECOMMENDATION:

Award a five-year Sole Source contract for Hydrogen Peroxide at an estimated annual expenditure of \$540,000.00 to US Peroxide, Atlanta, Georgia (Utilities SS-25-059) (Jeremy McCall/Robin R. Wilson)

STRATEGIC OUTCOME:

This award supports the City Council’s strategic outcome of Safe and Prosperous by ensuring the reliability and quality of the City’s wastewater treatment and collection systems.

REPORT:

The proprietary process from US Peroxide is a unique hydrogen sulfide odor and corrosion control technology for wastewater collection systems. The process utilizes hydrogen peroxide to regenerate iron sulfide, which has proven effective in its application and in the reduction of hydrogen sulfide in the valley interceptor during the course of the previous five-year contract.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 540,000.00	BUDGETED:	\$540,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 540,000.00			
Wastewater Fund			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Sufficient budget capacity is provided in the FY 2025 City Council approved budget to enter this agreement,

contingent on continued appropriations.

ADDITIONAL INFORMATION:

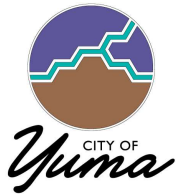
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



City of Yuma

City Council Report

File #: MC 2024-140

Agenda Date: 9/18/2024

Agenda #: 7.

<p>DEPARTMENT: City Attorney</p> <p>DIVISION: -</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Ratification: Settlement of Roberts v. City of Yuma, et al.

SUMMARY RECOMMENDATION:

Ratify settlement of the lawsuit *Frances Roberts v. City of Yuma, et al.* Yuma County Superior Court Case No. S1400CV202300792. (City Attorney) (Richard Files)

STRATEGIC OUTCOME:

The resolution of this claim supports the City Council's Respected and Responsible strategic outcome.

REPORT:

This lawsuit stems from a traffic collision that occurred on December 13, 2022, at the 3300 Block of S. 4th Avenue involving a City employee driving a City of Yuma vehicle.

Ms. Roberts sought, \$1,050,000.00 to settle her personal injury and property damage claims. After a half-day mediation, the Parties agreed to a full and final settlement of \$90,000.00 to completely resolve the lawsuit. The City Attorney's Office believes this settlement is fair and reasonable considering the facts and the potential costs of further litigation.

Adoption of this motion ratifies the settlement of the Roberts lawsuit for \$90,000.00 for personal injuries and property damage.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 90,000.00	BUDGETED:	\$ 90,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 90,000.00

Insurance Reserve Acct: 502-20-10.6305			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

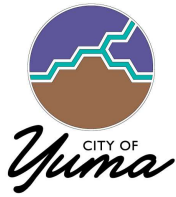
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



City of Yuma

City Council Report

File #: R2024-049

Agenda Date: 9/18/2024

Agenda #: 1.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Fire DIVISION: Suppression- Emergency Medical Services	<input checked="" type="checkbox"/> Safe & Prosperous <input type="checkbox"/> Active & Appealing <input type="checkbox"/> Respected & Responsible <input checked="" type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance - Introduction <input type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing

TITLE:
Intergovernmental Agreement: Arizona Western College

SUMMARY RECOMMENDATION:
Adopt an intergovernmental agreement with Arizona Western College (AWC) for emergency medical technician and paramedic field training. (Fire/EMS) (Dustin Fields)

STRATEGIC OUTCOME:
This agreement furthers the Safe and Prosperous and Connected and Engaged strategic outcomes by providing continuing quality education to students in partnership with AWC to certify emergency medical technicians and paramedics for needed medical services to our citizens.

REPORT:
The Fire Department requests approval of an Intergovernmental Agreement (IGA) with AWC which will permit qualified students enrolled in AWC’s emergency medical technician and paramedic programs to fulfill State of Arizona requirements for on-vehicle training. Under the IGA, students will participate at actual incidents utilizing their skills under the close supervision of Fire Department personnel who are State of Arizona approved preceptors.

Since 1984, the City and AWC have maintained an IGA for this purpose. The original agreement has been updated and both agencies desire to continue the partnership.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

No additional fiscal impact outside of normal duties of current Fire Department personnel is required for providing this precepting State required service.

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024

RESOLUTION NO. R2024-049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH ARIZONA WESTERN COLLEGE FOR EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC, AND FIRE SERVICE TRAINING

WHEREAS, the City of Yuma (City) operates a municipal Fire Department with a full time, 24/7 ambulance service staffed with trained and licensed emergency first responders; and,

WHEREAS, Arizona Western College (the College) through its Public Safety Institute, provides training and clinical practice for emergency medical technicians (EMTs), paramedics, and fire professionals; and,

WHEREAS, the City seeks to have a local education provider assist with the training of Fire Department employees and the College seeks to work with the City’s Fire Department to provide clinical opportunities as part of the required clinical training of EMTs, paramedics and fire professionals; and,

WHEREAS, the College is authorized to enter into this Agreement pursuant to Arizona Revised Statutes §11-952 and §15-1444; and,

WHEREAS, the City is authorized to enter into this Agreement pursuant to the Arizona Revised Statutes §11-952 and Yuma City Charter, Article III §13.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: The Intergovernmental Agreement between the College and the City for EMT/Paramedic and Fire Service Training for the benefit of the citizens and residents of Yuma, attached as Exhibit A and incorporated by reference, is approved.

SECTION 2: The City Administrator is authorized and directed to execute the Intergovernmental Agreement for and on behalf of the City of Yuma.

SECTION 3: The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Resolution.

Adopted this _____ day of _____, 2024.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Richard W. Files
City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN
ARIZONA WESTERN COLLEGE AND CITY OF YUMA REGARDING
EMT/PARAMEDIC AND FIRE SERVICE TRAINING
Yuma, Arizona**

This Intergovernmental Agreement Regarding EMT/Paramedic and Fire Service Training ("Agreement"), entered into on the Effective Date, as set forth below, between ARIZONA WESTERN COLLEGE, Public Safety Institute ("the College"), and CITY OF YUMA ("City"), which may be referred to individually as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the City operates a municipal Fire Department; and,

WHEREAS, the College is located within the City of Yuma; and,

WHEREAS, the College provides training and clinical practice for EMTs, paramedics, and fire professionals; and,

WHEREAS, the City seeks to have a local education provider assist with the training of Fire Department employees; and,

WHEREAS, the College is authorized to enter this Agreement pursuant Arizona Revised Statutes §§ 11-952 and 15-1444; and

WHEREAS, the City is authorized to enter this Agreement pursuant to Arizona Revised Statute § 11-952 and Yuma City Charter, Article III § 13; and

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual terms and conditions contained in this Agreement, the Parties agree as follows:

AGREEMENT

It is the intent of the College and the City to affiliate for the education of Emergency Medical Services students and Fire Cadets with the goal of providing these students with EMT/Paramedic and Fire Service Training (hereinafter "EMS Training" or "PSI Programs"). Therefore, the Parties mutually agree as follows:

ARTICLE I: Responsibility of Assignment

The College will assume full responsibility for the planning of the educational program in EMS Training and PSI Programs, including programming, administration and matriculation through the employment of a Program Coordinator.

ARTICLE II: Scope of Learning

1. Students participating in PSI Programs are required to participate in on-vehicle training as a part of their clinical training. This experience will include only those skills authorized by the Arizona Department of Health Services or the Office of the Arizona State Fire Office, as appropriate for the student's level of training.
2. The College will provide the City with a listing of the skills each level of training may perform.

ARTICLE III: Scheduling

The Program Coordinator will notify the City in advance of the schedule of student assignments to on-vehicle training including dates, numbers of students participating, and the level of training of each student.

ARTICLE IV: Supervision of Students

Trainees shall be supervised during on-vehicle training by any of the following personnel as directed by the Program Coordinator:

1. An Arizona licensed physician.
2. An Arizona licensed registered nurse experienced in emergency nursing.
3. An emergency paramedic certified by the Department of Health Services with a minimum of two years field experience.
4. An Advanced Emergency Medical Technician ("AEMT") certified by the Department of Health Services with a minimum of two years field experience.
5. A physician's assistant certified by the State with a minimum of two years' experience in emergency medicine.
6. Approved Fire Service Professionals.

ARTICLE V: Student Records

1. The training program Medical Director and Program Coordinator shall jointly certify successful completion of the course by each trainee.
2. The College will keep all records and reports on student experiences.
3. If the City maintains education records with respect to any of the students, the City agrees to comply with the confidentiality requirements contained in the Family Education Rights and Privacy Act ("FERPA").

ARTICLE VI: Compliance with Rules and Laws and City Records

1. The College assumes responsibility for compliance by all assigned students with all rules and regulations of the City, and all applicable federal and state laws, including HIPAA.
2. Students will have access to City client records for assignments, planning purposes, and learning situations on an as-needed basis. Any information contained in a City client record is considered confidential.
3. All client records of the City shall remain the sole property of the City and shall not be removed from the City's place of business at any time.

ARTICLE VII: Non-Discrimination

Both Parties agree to comply with all applicable state and federal laws governing nondiscrimination, equal employment opportunity, immigration, and affirmative action requirements.

ARTICLE VIII: Student Liability

1. The College, without cost to the City, will provide personal/professional liability insurance for the students.
2. The College agrees to indemnify the City for that pro-rata share, as determined pursuant to the Uniform Contribution Among Tortfeasors Act, A.R.S. § 12-2501, et seq., of any liability which is attributable to the acts, omissions or errors of

trainees training in City-owned vehicles and which results in property damage, personal injury or death. This indemnification does not include liability which is attributable to the acts, omissions or errors of City employees.

3. The College agrees to obtain liability insurance coverage in the amount of \$1,000,000.00 and to name the City as an additional party under that coverage to the extent provided in Paragraph 2 above.

ARTICLE IX: Termination of Students

The College may terminate any student from this experience for just cause. The City has the right to remove any student from its equipment or apparatus for just cause and to provide input towards termination when necessary.

ARTICLE X: Uniform Attire

Students participating in "EMS Training" or "PSI Programs" will wear clothing designating them as a student with a visible name pin.

ARTICLE XI: City Participation

1. The City will make available, at no charge to the College, the vehicular clinical time necessary for students to meet applicable accreditation, state and local requirements for the EMS Training and/or PSI Programs.
2. The City will make available, at no charge to the College, preceptors to supervise students on vehicular training.
3. The City will ensure that the City's preceptors will be responsible for direct supervision of any student experiences beyond the student's level of current certification.
4. The City will provide the College or its official representative, namely, the Program Coordinator, written policies pertinent to client services that will affect the conduct of "EMS Training" or "PSI Programs".

ARTICLE XII: Cooperation

1. The Dean of Career and Technical Education or their official representative, namely, the Program Coordinator, will cooperate with the City representatives in the conduct of "EMS Training" or "PSI Programs".
2. Faculty and students of the College will adhere to the policies provided by the City in Article XI while functioning in the City.

ARTICLE XIII: Conflict of Interest

This Agreement may be cancelled by either Party as permitted by and set forth in A.R.S. § 38-511.

ARTICLE XIV: Arizona Law

This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of Arizona. Any conflict arising out of or related to this Agreement shall be heard in a court of competent jurisdiction in Yuma County, Arizona.

ARTIVLE XV: Effective Date

This Agreement is effective as of the date of the last Party signature.

ARTICLE XVI: Term and Termination

This Agreement is in effect for a three (3) year term beginning on the Effective Date. This Agreement shall automatically renew for three (3) additional one-year periods unless sooner terminated by either of the Parties hereto, by providing ninety (90) days' written notice to the other Party. Either Party may terminate with or without cause.

ARTICLE XVII: Notices

Any notices required or permitted by this Agreement shall be in writing and shall be deemed delivered if delivered in person, by electronic mail with delivery receipt, or ten (10) days from the date of mailing by registered or certified mail and addressed to the point of contact for the other Party.

Arizona Western College 2020 S. Ave 8E P.O. Box 929 Yuma, Arizona 85366-0929 Point of Contact: Renee Munoz (928) 344-7522	City of Yuma Yuma Fire Department One City Plaza Yuma, Arizona 85364 (928) 373-4850
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ARTICLE XVIII: Non-Discrimination

The Parties shall comply with all applicable State and Federal employment laws, rules, and regulations, which require that all persons shall have equal access to employment regardless of race, color, religion, disability, sex (including sexual preference and gender identity), age, national origin, veteran's status, genetic code or political affiliation during the term(s) of this Agreement.

ARTICLE XIX: Availability of Funds for Each Successive Fiscal Year

Pursuant to A.R.S. § 41-2546, all Parties are government entities, and Agreement validity is based upon the availability of public funding. In the event public funds are unavailable and not appropriate for the performance of any Party's obligations pursuant to this Agreement, that Party's participation in this Agreement shall automatically terminate without penalty, after written notice to the other of the unavailability and non-appropriations of public funds. It is expressly agreed that no Party shall activate this provision for its convenience or to circumvent the requirements of the Agreement, but only as an emergency fiscal measure.

ARTICLE XX: Impossibility

No Party to this Agreement shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reasons beyond its control, including without limitation, global or national pandemics, acts of God or of the public enemy, flood or storm, strikes, court decision order, or statutory regulation or rule of any Federal, State or local government, or any agency thereof.

ARTICLE XXI: Employee Worker Eligibility

By entering into this Agreement, the Parties warrant compliance with A.R.S. § 41-4401, A.R.S. § 23-214(A), the Federal Immigration and Nationality Act (FINA), and all other Federal immigration laws and regulations at all times when operating in the State of Arizona. Either Party may request verification of compliance from any other Party's employee, contractor or subcontractor performing work pursuant to this Agreement. A

breach of this warranty shall be deemed a material breach subject to penalties up to and including termination of this Agreement.

ARTICLE XXII: Severability

The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not affect any other provision or application of the Agreement, which may remain in effect without the invalid provision or application

ARTICLE XXIII: Rights of Parties Only

The terms of this Agreement are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties in favor of any potential third-party beneficiary or other person, agency or organization.

ARTICLE XXIV: Relationship of the Parties

It is clearly understood that each Party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of the one Party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.

ARTICLE XXV. Authority of Parties

The persons executing this Agreement on behalf of the Parties hereby represent and guarantee that they have been authorized to do so, on behalf of themselves and the entity they represent. Further representation is made that due diligence has occurred, and that all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied to legally bind the entity to the terms of this Agreement.

ARTICLE XXVI: Counterparts

This Agreement may be executed in multiple counterparts, each of which shall constitute an original and together shall constitute the Agreement.

ARTICLE XXVII: Entire Agreement

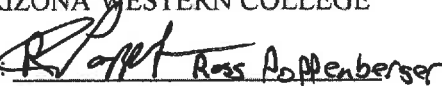
This Agreement contains the entire understanding of the Parties. There are no representations or other provisions other than those contained herein, and any amendment or modification of this Agreement shall be made only in writing and signed by the Parties to this Agreement.

ARTICLE XXVIII. Automatic Incorporation

All applicable Federal, State and local laws, court orders and decisions, Executive Orders, rules and regulations not specifically referenced herein are deemed automatically incorporated.

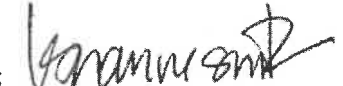
[Signatures Next Page]

IN WITNESS WHEREOF, the Parties thereto have entered into this Agreement as evidenced by the below signatures.

<p>ARIZONA WESTERN COLLEGE</p> <p>By: <u></u> Vice President, Financial and Administrative Services</p> <p>Date: <u>6-17-2024</u></p>	<p>CITY OF YUMA</p> <p>By: _____ John D. Simonton, City Administrator</p> <p>Date: _____</p>
<p>ATTEST:</p> <p>_____ Lynda L. Bushong, City Clerk</p>	

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with A.R.S. §11-952, this Agreement has been reviewed by the undersigned who have determined that this Agreement is in appropriate form and within the powers and authority granted to each respective public body.

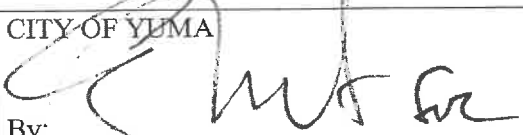
<p>ARIZONA WESTERN COLLEGE</p> <p>By: <u></u> Lisa Anne Smith DeConcini McDonald Yetwin & Lacy, P.C. 2525 E. Broadway, Suite 200 Tucson, AZ 85716 (520) 322-5000 lasmith@dmyl.com</p> <p>Date: <u>6/12/24</u></p>	<p>CITY OF YUMA</p> <p>By: _____ Richard W. Files, City Attorney One City Plaza Yuma, AZ 85364 (928) 373-5050 richard.files@yumaAz.gov</p> <p>Date: _____</p>
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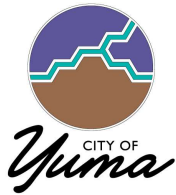
IN WITNESS WHEREOF, the Parties thereto have entered into this Agreement as evidenced by the below signatures.

<p>ARIZONA WESTERN COLLEGE</p> <p>By: _____ Vice President, Financial and Administrative Services</p> <p>Date: _____</p>	<p>CITY OF YUMA</p> <p>By: _____ John D. Simonton, City Administrator</p> <p>Date: _____</p>
<p>ATTEST:</p> <p>_____ Lynda L. Bushong, City Clerk</p>	

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with A.R.S. §11-952, this Agreement has been reviewed by the undersigned who have determined that this Agreement is in appropriate form and within the powers and authority granted to each respective public body.

<p>ARIZONA WESTERN COLLEGE</p> <p>By: _____ Lisa Anne Smith DeConcini McDonald Yetwin & Lacy, P.C. 2525 E. Broadway, Suite 200 Tucson, AZ 85716 (520) 322-5000 lasmith@dmyl.com</p> <p>Date: _____</p>	<p>CITY OF YUMA</p> <p>By:  _____ Richard W. Files, City Attorney One City Plaza Yuma, AZ 85364 (928) 373-5050 richard.files@yumaAz.gov</p> <p>Date: <u>6/14/24</u></p>
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City of Yuma

City Council Report

File #: R2024-050

Agenda Date: 9/18/2024

Agenda #: 2.

<p>DEPARTMENT: Planning & Neighborhood Svc</p> <p>DIVISION: Community Planning</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input checked="" type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input type="checkbox"/> Motion</p> <p><input checked="" type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Order Improvements: Municipal Improvement District No. 126: Barkley Ranch Units 8-10

SUMMARY RECOMMENDATION:

Order Improvements for Municipal Improvement District (MID) No. 126 to serve Barkley Ranch Units 8-10, to operate, maintain and repair landscaping improvements within, near and adjacent to the retention and detention basins and parking and parkways and related facilities together with appurtenant structures (Landscape Improvements); declaring the Landscape Improvements to be of more than local or ordinary benefit, and that the costs of the Landscape Improvements for MID No. 126 shall be assessed upon the properties in MID No. 126; providing that the proposed Landscape Improvements shall be performed under Arizona Revised Statutes (A.R.S.) Title 48, Chapter 4, Article 2. (Community Development/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

This MID furthers the City Council’s Respected and Responsible and Active and Appealing strategic outcomes. The establishment of a MID is a fiscally responsible measure intended to provide long-term maintenance for subdivision landscaping resulting in an appealing environment for neighborhood residents.

REPORT:

A.R.S. § 48-501 *et seq.* authorizes the formation of a MID for the following purposes: operations, maintenance, repair and improvements of pedestrian malls, off-street parking facilities, retention basins, and parking and parkways. A MID provides a dedicated funding stream for the Landscape Improvements serving the neighborhood and provides neighborhood input for the implementation and privatization of those Landscape Improvements.

The formation of a MID is a two-step process, both accomplished via resolution from the legislative body. First, the legislative body adopts a resolution creating the MID. By statute, the legislative body can initiate the formation or, alternatively, property owners are empowered to petition to form a MID for their neighborhood. Then, no sooner than 15 days after the creation (it can be longer, depending on the developers’ schedule), the legislative body orders improvements for the MID by a second resolution.

In this case, the developer and City agreed to the formation of a MID for the statutory purposes through a development condition. The developer submitted the petition to create MID No. 126 and represented all of the

real property owners within the MID. On June 26, 2024, City Council adopted Resolution No. R2024-032 creating MID No. 126 for Landscape Improvements serving Barkley Ranch Units 8-10.

Following the adoption of R2024-032, property owners within the designated MID, in accordance with A.R.S. § 48-579, were given 15 days to express written protest against the proposed MID. No protests were submitted, and as such, the Mayor and City Council are authorized to adopt this second resolution, the Resolution Ordering the Improvements, which finalizes the formation of the MID process. Because the developer’s petition represented all of the real property owners within the proposed MID, A.R.S. § 48-574(C) authorizes the City to adopt the resolution ordering the improvements without the necessity of publication and posting as required in other statutes.

Upon adoption of R2024-032, by City Council, City staff submitted the creation of MID No. 126 to the County Assessor. The County Assessor filed the documents with the state and the MID is created. The next step is this Resolution Ordering Improvements, which will again be sent to the County Assessor to file with the state and the MID will be finalized.

Once the developer installs the landscaping in accordance with the approved landscaping plans and those landscaping improvements are accepted, the costs to maintain those Landscape Improvements will be assessed on the respective owner’s property tax bill within the Boundary Map and the Legal Description. In accordance with the provisions of A.R.S. § 48-574, City Council will hold public hearings on MID No. 126’s Landscape Improvements on or before the third Monday in August of each year, and shall fix, levy and assess the costs of MID No. 126’s Landscape Improvements on all of the property in the MID. As provided in A.R.S. § 48-574(D)(2), City Council shall make annual statements and estimates of the expenses of the MID which shall be provided for by the levy and collection of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot with MID No. 126.

It is anticipated that the developer may be ready to install the landscaping this calendar year. Adopting the Resolution Ordering Improvements ensures that there are no delays with finalizing the MID when the developer is ready.

Adopting this resolution finalizes the formation of MID No. 126 and orders improvements for MID No. 126’s Landscape Improvements serving Barkley Ranch Units 8-10.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024

RESOLUTION NO. R2024-050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, ORDERING IMPROVEMENTS FOR MUNICIPAL IMPROVEMENT DISTRICT NO. 126 SERVING BARKLEY RANCH UNITS 8-10, TO OPERATE, MAINTAIN AND REPAIR LANDSCAPING IMPROVEMENTS INCLUDED WITHIN, NEAR AND ADJACENT TO THE RETENTION AND DETENTION BASINS AND PARKINGS AND PARKWAYS AND RELATED FACILITIES, TOGETHER WITH APPURTENANT STRUCTURES OF BARKLEY RANCH UNITS 8-10 AS MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION, AND DECLARING THE LANDSCAPE IMPROVEMENTS TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THE COST OF THE LANDSCAPE IMPROVEMENTS ASSESSED UPON MUNICIPAL IMPROVEMENT DISTRICT NO. 126; IMPROVEMENTS SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES (A.R.S.) TITLE 48, CHAPTER 4, ARTICLE 2

WHEREAS, City Council adopted Resolution R2024-032 declaring the intention to create Maintenance Improvement District (MID) No. 126 to operate, maintain, and repair certain landscape improvements within, near, and adjacent to the retention and detention basins and the parkings and parkways and related improvements (Landscape Improvements) in the Barkley Ranch Units 8-10 housing development; and,

WHEREAS, the petition to form MID No. 126 was signed by all of the real property owners within the proposed MID; and,

WHEREAS, A.R.S. § 574(C) authorizes City Council to adopt the resolution ordering the improvements, pursuant to the provision of A.R.S. § 48-581, without the necessity of publication and posting of the resolution of intention provided for in A.R.S. § 48-578; and,

WHEREAS, a legal description of the boundary for MID No. 126 and a diagram for MID No. 126 has been presented to City Council for consideration in this declaration of intention to order improvements to MID No. 126 as provided in A.R.S. § 48-576.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: City Council orders Landscape Improvements for MID No. 126 serving Barkley Ranch Units 8-10. Once the Landscape Improvements are approved and constructed by the developer, the estimate of the cost and expenses shall be placed on file with the City Clerk and presented to City Council in accordance with the provisions of A.R.S. § 48-574.

SECTION 2: City Council finds the Landscape Improvements for MID No. 126 are of more than local or ordinary public benefit, and are of special benefit to the respective lots, parcels and land within the described real property of MID No. 126. City Council orders the cost and expense for the Landscape Improvements of MID No. 126 be chargeable upon the real and personal property within MID No. 126, as described in Exhibit A attached. City Council declares that MID No. 126 is benefited by the Landscape Improvements and the real and personal properties within MID No. 126 are to be assessed the proportional share of the costs and expenses of the Landscape Improvements.

SECTION 3: All proceedings concerning the Landscape Improvements for MID No. 126,

including the calculations for the costs and expenses and all assessments to pay the costs and expenses of the Landscape Improvements, shall be made in accordance with the provisions of Title 48, Chapter 4, Article 2 of the A.R.S., as amended.

SECTION 4: Any public street or alley within the boundaries of MID No. 126 are omitted from the real and personal property of MID No. 126 and shall not be included in the assessment.

SECTION 5: In no event will the City of Yuma or any officer thereof be liable for any portion of the cost of the MID nor any delinquency of persons or property assessed.

SECTION 6: As provided in A.R.S. § 48-574(D)(2), City Council shall make annual statements and estimates of the expenses of the MID which shall be provided for by the levy and collection of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot with MID No. 126.

Adopted this _____ day of _____, 2024.

APPROVED:

Douglas J. Nicholls Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

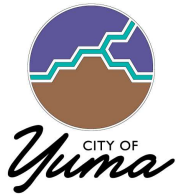
Richard W. Files
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

APN: 693-31-002

Parcel A, CITY OF YUMA FIRE STATION NO. 6 LOT SPLIT, according to Book 22 of Plats, page 58, records of Yuma County, Arizona, being a portion of the Southeast quarter of the Southeast quarter and the East half of the Southwest quarter of Section 1, Township 9 South, Range 24 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona.



City of Yuma

City Council Report

File #: O2024-028

Agenda Date: 9/4/2024

Agenda #: 1.

<p>DEPARTMENT: Planning & Neighborhood Svc</p> <p>DIVISION: Community Planning</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance - Introduction</p> <p><input checked="" type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
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TITLE:

Annexation Area No. ANEX-42924-2024: Irwin Trust

SUMMARY RECOMMENDATION:

Authorize annexation of property located in the vicinity of E. 28th Street and S. Rebecca Avenue. (ANEX-42924-2024). (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

The approval of this annexation will clarify jurisdiction for access to City resources and services. This annexation assists in furthering City Council’s strategic outcome of Respected and Responsible.

REPORT:

The City of Yuma has initiated this annexation of two properties that are the subject of a Pre-annexation Development agreement adopted by the City Council on March 16, 2007 (R2007-15). The annexation area consists of two parcels of real property and the adjacent 28th Street right-of-way. The annexation area totals approximately 29.4 acres. The properties are owned by the Irwin Catherine H Trust dated 4-09-86 and the Irwin Testamentary Trust respectively. The annexation area is designated on the annexation map attached to the proposed ordinance.

In accordance with Arizona Revised Statutes § 9-471, a blank petition with a legal description and map of the area to be annexed was filed with the County Recorder on July 18, 2024. There was a 30-day waiting period after recording the map and petition with the County Recorder before signatures on the annexation petition could be obtained. During the waiting period, a public hearing for annexation ANEX-42924-2024 was held by the City Council on August 7, 2024, to comply with the state annexation law. All appropriate and necessary notice and posting requirements have been met.

After the 30-day waiting period and the public hearing, the following procedures were followed:

1. The signatures of the property owners were obtained such that at least one-half of the value of the real and personal property is represented and such that more than one-half of the parcel owners are represented. No modifications, including increases or decreases to the territory to be annexed, were made after the first property owners in the area signed the annexation petition.

2. Within one year after the last day of the 30-day waiting period, these completed petitions were received and recorded with the office of the Yuma County Recorder.

Following the recording of the completed petitions, an ordinance must be adopted by the City Council changing the City boundaries to include the annexation area.

The ordinance also identifies the zoning district to be placed on the property within the annexation area as Heavy Industrial (HI). This zoning designation matches the current County Zoning on the properties (HI-1) and is in conformance with the City of Yuma General Plan, which identifies the future land use of the property as Industrial.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			

FISCAL IMPACT STATEMENT:

Not applicable

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk’s Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 08/26/2024
Reviewed by City Attorney: Richard W. Files	Date: 08/26/2024

ANNEXATION PETITION ANEX-42924-2024
Irwin Trust Annexation

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF YUMA, ARIZONA:

We, the undersigned, owners of real and personal property, being the real property hereinafter described and all personal property that we may own in the area to be annexed, request the City of Yuma to annex our property, said property being located in a territory contiguous to the City of Yuma, Arizona, and being located within the following described area:

A portion of the Northeast Quarter of the Southwest Quarter of Section 6, Township 9 South, Range 22 West, of the Gila and Salt River Base and Meridian, Yuma County, Arizona, being more particularly described as follows;

Beginning at the West Quarter Corner of said Section 6, Township 9 South, Range 22 West,

Thence North $89^{\circ}53'00''$ East along the East West Mid-Section line of said Section 6 a distance of 1311.50' feet to a point on the Northwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6 also being the Northeast Corner of Lot 12 of the Curtis Industrial Park (Phase 1), Plat, Fee# 1998, Dated 2-10/1998, and the TRUE POINT OF BEGINNING;

Thence South $00^{\circ}21'50''$ West along the West line of the Northeast Quarter of the Southwest Quarter of said Section 6 also being the East line of Lots 12-16 of said Curtis Industrial Park (Phase 1) Plat, a distance of 1321.20' feet to a point on the Southwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence North $89^{\circ}47'40''$ East along the South line of the Northeast Quarter of the Southwest Quarter of said Section 6 also known as the North line of Lots 20-26 of said Curtis Industrial Park (Phase 1) Plat, a distance of 1317.76' feet to a point on the Southeast Corner of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence North $00^{\circ}21'00''$ West along the North-South Mid-Section line of said Section 6 a distance of 659.54' feet to a point on the Northeast Corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence Westerly along the North line of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter a distance of $658.38\pm$ feet to a point on the Northwest Corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence Northerly along the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6 a distance of $660.02\pm$ feet to a point on the North line of the Northeast Quarter of the Southwest Quarter also known as the East-West Mid-Section line of said Section 6,

Thence Westerly along the East-West Mid-Section line of said Section 6 a distance of 657.61± feet to the Northwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6 also known as the Northeast Corner of said Lot 12 of the Curtis Industrial Park (Phase 1) Plat and being the TRUE POINT OF BEGINNING.

Containing 1,280,228.40 Sq. Ft. or 29.39 acres more or less.

In addition to the above description, any and all county rights-of-way and roadways with no taxable value that are within or contiguous to the exterior boundaries of the proposed annexation are part of the territory proposed to be annexed and will be included in any ordinance of annexation adopted as a result of this petition.

The City Council may determine the exact boundary of said territory to be annexed; provided, however, that said annexation area lies wholly within the above described area, and provided further, that the provisions of Section 9-471, Arizona Revised Statutes, are fully observed and complied with.

DATE	SIGNATURE	MAILING ADDRESS	PARCEL ID/ LEGAL DESCRIPTION

(Legal description can be Lot/Block/Subdivision; Book/Map/Parcel; or Metes and Bounds)

Print Name of Signatory above: _____

Property Owner:

ORDINANCE NO. O2024-028

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, ANNEXING TO THE CITY OF YUMA, A PORTION OF SECTION 6, TOWNSHIP 9 SOUTH, RANGE 22 WEST OF THE GILA AND SALT RIVER BASE & MERIDIAN, YUMA COUNTY, ARIZONA, AND AMENDING CHAPTER 154 OF THE YUMA CITY CODE, AS AMENDED, DESIGNATING THE ZONING OF CERTAIN PROPERTY TO THE HEAVY INDUSTRIAL (HI) ZONING DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM THERETO, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES AS AMENDED

WHEREAS, a petition in writing (“Petition”), accompanied by a map or plot of said property, having been filed and presented to the Mayor and City Council of the City of Yuma, Arizona, signed by the owners of more than one-half in value of the real and personal property and more than one-half of the persons owning real and personal property as would be subject to taxation by the City of Yuma in the event of annexation of the territory and land hereinafter described as shown by the last assessment of said property, which said territory is contiguous to the City of Yuma and not now embraced within its corporate limits, asking that the property more particularly hereinafter described be annexed to the City of Yuma, and to extend and increase the corporate limits of the City of Yuma so as to embrace the same; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, are desirous of complying with the Petition and extending and increasing the corporate limits of the City of Yuma to include said territory; and,

WHEREAS, the Petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the City of Yuma and had attached thereto at all times an accurate map of the territory desired to be annexed; and,

WHEREAS, no alterations increasing or reducing the territory sought to be annexed have been made after the Petition had been signed by any owner of real and personal property in such territory; and,

WHEREAS, the provisions of A.R.S. § 9-471, as amended, have been fully observed; and,

WHEREAS, proper and sufficient certification and proof of the foregoing facts are now on file in the office of City Clerk of the City of Yuma, Arizona, together with a true and correct copy of the original Petition referred to herein, which is on file in the office of the Yuma County Recorder; and,

WHEREAS, upon annexation the initial designation for zoning of the property described in Section 2 shall be Heavy Industrial (HI) District, as provided for in A.R.S. § 9-471, and amendments thereto; and,

WHEREAS, the City Council has considered the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, as follows:

SECTION 1: That the following described territory be, and the same hereby is, annexed to the City of Yuma, and that the present corporate limits be, and the same hereby are, extended and increased to include the following described territory contiguous to the present City of Yuma corporate limits, to wit:

A portion of the Northeast Quarter of the Southwest Quarter of Section 6, Township 9 South, Range 22 West, of the Gila and Salt River Base and Meridian, Yuma County, Arizona, being more particularly described as follows;

Beginning at the West Quarter Corner of said Section 6, Township 9 South, Range 22 West,

Thence North 89°53'00" East along the East West Mid-Section line of said Section 6 a distance of 1311.50' feet to a point on the Northwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6 also being the Northeast Corner of Lot 12 of the Curtis Industrial Park (Phase 1), Plat, Fee# 1998, Dated 2-10/1998, and the True Point of Beginning;

Thence South 00°21'50" West along the West line of the Northeast Quarter of the Southwest Quarter of said Section 6 also being the East line of Lots 12-16 of said Curtis Industrial Park (Phase 1) Plat, a distance of 1321.20' feet to a point on the Southwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence North 89°47'40" East along the South line of the Northeast Quarter of the Southwest Quarter of said Section 6 also known as the North line of Lots 20-26 of said Curtis Industrial Park (Phase 1) Plat, a distance of 1317.76' feet to a point on the Southeast Corner of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence North 00°21'00" West along the North-South Mid-Section line of said Section 6 a distance of 659.54' feet to a point on the Northeast Corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence Westerly along the North line of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter a distance of 658.38± feet to a point on the Northwest Corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6,

Thence Northerly along the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of said Section 6 a distance of 660.02± feet to a point on the North line of the Northeast Quarter of the Southwest Quarter also known as the East-West Mid-Section line of said Section 6,

Thence Westerly along the East-West Mid-Section line of said Section 6 a distance of 657.61± feet to the Northwest Corner of the Northeast Quarter of the Southwest Quarter of said Section 6 also known as the Northeast Corner of said Lot 12 of the Curtis Industrial Park (Phase 1) Plat and being the True Point of Beginning.

Containing 1,280,228.40 Sq. Ft. or 29.39 acres more or less.

SECTION 2: That, pursuant to the provisions of §9-471(L), Arizona Revised Statutes, upon this Ordinance becoming final under the provisions of §9-471(D), Arizona Revised Statutes, the municipal zoning designation for the territory described in Section 1, shall be the Heavy Industrial (HI) District of the City of Yuma Zoning Ordinance.

SECTION 3: That a copy of this ordinance, together with the attached map of the territory hereby annexed to the City of Yuma, certified by the Mayor of the City of Yuma, be forthwith filed and recorded in the office of the County Recorder of Yuma County, Arizona.

Adopted this _____ day of _____, 2024.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:



Richard W. Files
City Attorney



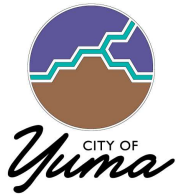
**Annexation Map Produced
Pursuant to A.R.S. §9-471**

NOT TO SCALE
COMMUNITY PLANNING AND
NEIGHBORHOOD SERVICES GIS

**City of Yuma, Arizona Annexation
Area No. ANEX-042924-2024**

 City of Yuma
 Annexation Area

The City of Yuma shall maintain the rights-of-way and roadways that are within the annexation boundaries. Yuma County shall maintain the rights-of-way and roadways that are contiguous to and outside the annexation boundaries.



City of Yuma

City Council Report

File #: O2024-029

Agenda Date: 9/18/2024

Agenda #: 1.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Planning & Neighborhood Svc	<input checked="" type="checkbox"/> Safe & Prosperous <input type="checkbox"/> Active & Appealing <input checked="" type="checkbox"/> Respected & Responsible <input type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Motion <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance - Introduction <input type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing
DIVISION: Community Planning		

TITLE:
Rezoning of Property: 2050 S. 10th Avenue

SUMMARY RECOMMENDATION:
 Rezone approximately .17 acres located at 2050 S. 10th Avenue from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District (ZONE-42650-2024) (Planning and Neighborhood Services / Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:
 Approval of this rezone supports residential development in the City that will be responsibly constructed, meeting all codes and requirements. This rezone assists in furthering the City Council’s strategic outcomes of Safe and Prosperous and Respected and Responsible.

REPORT:
 The property is located on S. 10th Avenue with a single-family residence. The property owner intends to develop another single-family dwelling on this site.

Below, are some of the development standards which apply to the Medium Density Residential (R-2) District:

Medium Density Residential (R-2) District:

- The maximum lot coverage in the Medium Density Residential (R-2) District shall not exceed 55% of the lot area.
- A minimum front yard setback of 20 feet;
- A minimum side yard setback of 5 feet; and
- A minimum rear yard setback of 10 feet;

Additionally, the maximum building height in the Medium Density Residential District is 40 feet, reduced to 20 feet (one story maximum) for all land located within 60 feet of a lot in an Agriculture, Suburban Ranch, Residential Estate or Low Density Residential District.

In accordance with current City codes, applicable laws and principles, the developer, engineer, and

architectural experts will need to submit development plans to ensure all of the development standards for the Medium Density Residential District (R-2) are met.

The potential residential development could contain between 1 and 2 dwelling units based on the density allowable in the City of Yuma 2022 General Plan. The request to rezone the property from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District is in conformance with the General Plan.

PUBLIC COMMENTS - EXCERPTS FROM PLANNING AND ZONING COMMISSION MEETING MINUTES:

Questions for Staff:

None

APPLICANT/APPLICANT’S REPRESENTATIVE

None

PUBLIC COMMENT

None

“Motion by John Mahon, Planning and Zoning Commissioner, second by Joshua Scott, Planning and Zoning Commissioner to APPROVE ZONE-42650-2024 as presented.

“Motion carried unanimously, (5-0) with two absent.’

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

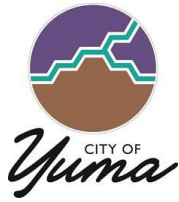
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk’s Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



STAFF REPORT TO THE PLANNING AND ZONING COMMISSION
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – REZONE
CASE PLANNER: ZENIA FIVEASH

Hearing Date: June 24, 2024

Case Number: ZONE-42650-2024

Project Description/ Location: This is a request by Braulio Martinez, Jr., on behalf of Braulio Martinez, Sr., to rezone one parcel, approximately .17 acres, from the Low Density Residential (R-1-6) to the Medium Density Residential (R-2) District, for the property located at 2050 S.10th Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Low Density Residential (R-1-6) District	Single-Family Residence	Low Density Residential
North	Low Density Residential (R-1-6) District	Single-Family Residence	Low Density Residential
South	Low Density Residential (R-1-6) District	Single-Family Residence	Low Density Residential
East	Low Density Residential (R-1-6) District	Single-Family Residence	Low Density Residential
West	Medium Density Residential (R-2) District	Duplexes	Medium Density Residential

Location Map



Prior site actions: Annexation: Ordinance 672, (July 21, 1956); Subdivision: Atmar Subdivision No. 2 (August 5, 1952)

Staff Recommendation: Staff recommends **APPROVAL** of the rezoning from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District, subject to the conditions shown in Attachment A.

Suggested Motion: Move to **APPROVE** Rezone ZONE-42650-2024 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

Effect of the Approval: By approving the rezone, the Planning and Zoning Commission is recommending approval to City Council for the request to rezone the property from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District for the property located at 2050 S. 10th Avenue, subject to the conditions outlined in Attachment A, and affirmatively finds that the request is in conformance with the City of Yuma General Plan.

Staff Analysis: The subject property is approximately 62 feet wide and 125 feet in depth, with frontage on S. 10th Avenue. This lot has a single family home.

The applicant is requesting to rezone the property from the Low Density Residential (R-1-6) District to the Medium Density Residential (R-2) District. The property owner is requesting this rezone with the intention to develop another dwelling unit on the existing property. The applicant intends to demolish the existing pool and construct a second detached dwelling unit at the rear of the property. The access and parking to the new dwelling will be from 10th Avenue along the north side of the property.

The subject property is located within the area of the City that was subdivided in the 1952. This neighborhood is a mix of residential homes, multi-family homes and commercial business uses.

The property is bordered by single-family homes to the east, north and south and duplexes on the west. This request is in conformance with the Land Use Element of the General Plan.

1. Does the proposed zoning district conform to the Land Use Element? No

Land Use Element:									
Land Use Designation:				Medium Density Residential					
Issues:				None					
Historic District:	Brinley Avenue		Century Heights		Main Street		None	X	
Historic Buildings on Site:		Yes	No	X					

2. Are there any dedications or property easements identified by the Transportation Element? No

FACILITY PLANS						
Transportation Master Plan	Planned	Existing	Gateway	Scenic	Hazard	Truck

10 th Avenue – Local Road	30 FT H/W ROW	30 FT H/W ROW				
22 nd Street – Local Road	30 FT H/W ROW	30 FT H/W ROW				
Bicycle Facilities Master Plan	10th Avenue – Existing Bike Route					
YCAT Transit System	Purple Route 6/6A					
Issues:	None					

3. Does the proposed rezoning of the property conform to the remaining elements of the general plan? Yes

Parks, Recreation and Open Space Element:								
Parks and Recreation Facility Plan								
Neighborhood Park:	Existing: Sanguinetti Memorial Park			Future: Sanguinetti Memorial Park				
Community Park:	Existing: Smucker Memorial Park			Future: Smucker Memorial Park				
Linear Park:	Existing: East Main Canal			Future: East Main Canal				
Issues:	None							
Housing Element:								
Special Need Household:	N/A							
Issues:	None							
Redevelopment Element:								
Planned Redevelopment Area:	None							
Adopted Redevelopment Plan:	North End:		Carver Park:		None:	X		
Conforms:	Yes		No					
Conservation, Energy & Environmental Element:								
Impact on Air or Water Resources	Yes		No	X				
Renewable Energy Source	Yes		No	X				
Issues:								
Public Services Element:								
<u>Population Impacts</u> Population projection per 2018-2022 American Community Survey Police Impact Standard: 1 officer for every 530 citizens; 2020 Conservation Plan Water demand: 207 gallons/day/person; Wastewater generation: 70 gallons per day per person		Dwellings & Type <i>2-4 Units</i>		Projected Population	Police Impact	Water Consumption		Wastewater Generation
		Maximum	Per Unit		Officers	GPD	AF	GPD
		2	2.07	4	0.01	857	1.0	290
		Minimum						
		1	2.07	2	0.00	428	0.5	145
Fire Facilities Plan:	Existing: Fire Station No. 2			Future: Fire Station No. 2				
Water Facility Plan:	Source:	City	X	Private	Connection:	6" Water - Alley		
Sewer Facility Plan:	Treatment:	City	X	Septic	Private	Connection: 6" Sewer - Alley		
Issues:	None							
Safety Element:								
Flood Plain Designation:	X			Liquefaction Hazard Area:	Yes		No	X
Issues:	None							
Growth Area Element:								
Growth Area:	Araby Rd & Interstate 8			Arizona Ave & 16 th St		Avenue B & 32 nd St.		
	North End		Pacific Ave & 8 th St		Estancia	None	X	
Issues:								

4. Does the proposed rezoning conform to the adopted facilities plan?

Yes

5. Does the proposed rezoning conform to Council’s prior approval of rezonings, development agreements or subdivisions for this site?

Yes/No The property was subdivided for single family homes in 1952. But since then the area has been identified for Medium Density development in the General Plan.

Public Comments Received

Name:	Glen Wagner				Contact Information:						
Method of Contact:	Phone	X	FAX		Email		Letter		Other		
Mr. Wagner had no concerns with the rezone. He just wanted additional information about the rezone.											

Neighborhood Meeting Comments:

See Attachment C

Proposed conditions delivered to applicant on: May 23, 2024

Final staff report delivered to applicant on: May 29, 2024

<input checked="" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: May 23, 2024
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

Attachments

A	B	C	D	E	F
Conditions of Approval	Agency Notifications	Neighborhood Meeting Comments	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: *Zenia Fiveash*

Date: May 29, 2024

Zenia Fiveash
Assistant Planner
Zenia.Fiveash@yumaaz.gov

(928) 373-5000, x3040

Reviewed By: *Jennifer L. Albers*

Date: 5/29/24

Jennifer L. Albers
Assistant Director of Planning

Approved By: *Alyssa Linville*

Date: 06/13/2024

Alyssa Linville
Director, Planning and Neighborhood Services

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning, Zenia Fiveash, Assistant Planner, (928) 373-5000 x3040

3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**ATTACHMENT B
AGENCY NOTIFICATIONS**

- **Legal Ad Published: The Sun** 5/31/24
- **300' Vicinity Mailing:** 5/06/24
- **34 Commenting/Reviewing Agencies noticed:** 5/09/24
- **Site Posted on:** 5/08/24
- **Neighborhood Meeting:** 5/15/24
- **Hearing Date:** 6/24/24
- **Comments Due:** 5/20/24

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	Yes		X		
Yuma County Engineering	NR				
Yuma County Public Works	Yes		X		
Yuma County Water Users' Assoc.	Yes		X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	Yes		X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineer	NR				
Fire	Yes		X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	NR				
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT C
NEIGHBORHOOD MEETING COMMENTS

Date Held: 5/15/24

Location: 2050 S. 10th Avenue

Attendees:

Neighbors: Fernando Esparza & Jimmy Fiser

Applicant: Braulio Martinez, Sr. & Braulio Martinez, Jr

Staff: Zenia Fiveash

SUMMARY OF ATTENDEE(S)' COMMENTS RELATED TO THE PROJECT:

- Fernando Esparza – He had concerns about adequate parking only.
- Jimmy Fiser – He had concerns about adequate parking only.

**ATTACHMENT D
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City/State/Zip Code		
ACEVEDO GERARDO C &	2068 S 9TH AVE	YUMA	AZ	85364
ARELLANO CRISTAL	2075 S 10TH AVE	YUMA	AZ	85364
AVILA MARCUS	2056 S 10TH AVE	YUMA	AZ	85364
BALB TRUST 12-22-2017	1915 S 39TH ST #73	MESA	AZ	85206
CAMINO OTERO REAL ESTATE INVESTMENTS LLC	340 W 32ND ST #504	YUMA	AZ	85364
CARLITOS TRUST 11-5-2021	2050 S 9TH AVE	YUMA	AZ	85364
CASTILLO LILLIAN G	2049 S 11TH AVE	YUMA	AZ	85364
CHAVEZ MARCUS	2039 S 11TH AVE	YUMA	AZ	85364
CORRAL PEDRO & DANIA	PO BOX 779	SOMERTON	AZ	85350
DRAVEN LIVIER VALDEZ	2100 S 11TH AVE	YUMA	AZ	85364
ENOCKSON KARL L & MARY L 1999 TR 7-13-99	PO BOX 3572	MANHATTAN BEACH	CA	90266
ENOCKSON KARL L & MARY LOUISE 1999 TRUST 7-13-1999	PO BOX 3572	MANHATTAN BEACH	CA	90266
FAZZ SERGIO & JUANITA	2044 S 9TH AVE	YUMA	AZ	85364
FIGUEROA DIANA	PO BOX 462	YUMA	AZ	85366
FISER SUSAN P	2057 S 10TH AVE	YUMA	AZ	85364
FLORENCE DENNIS J & LINDA S	2038 S 10TH AVE	YUMA	AZ	85364
FRANCO RODOLFO & TERESA JT	2045 S 10TH AVE	YUMA	AZ	85364
GARCIA JACQUELINE	2026 S 10TH AVE	YUMA	AZ	85364
GARIBAY TRUST 3-12-2020	4113 W 17TH PL	YUMA	AZ	85364
JOE & FRAN COLOMBO LLC	1147 LOSTINDA ST	EL CAJON	CA	92019
LANDEROS RAMON	2020 S 11TH AVE	YUMA	AZ	85364
LE DOANH DUC	5660 W MANZANITA DR	GLENDALE	AZ	85302
LEE FAMILY TRUST UTA 1-12-05	3877 E KING RANCH DR	YUMA	AZ	85365
LEE LORREINE	2045 S 11TH AVE	YUMA	AZ	85364
LOPEZ JUAN PEDRO TORRES	2021 S 10TH AVE	YUMA	AZ	85364
MANFREDI ROBERT WARREN	400 S MAIN ST	YUMA	AZ	85364
MARTINEZ BRAULIO M SR TRUST 12-21-2018	14043 HILLSIDE DR	JAMUL	CA	91935
MARTINEZ PABLO	14105 S 4TH AVE EXT	YUMA	AZ	85365
MAXWELL REVOCABLE TRUST 3-26-79	2208 E 27TH ST	YUMA	AZ	85365
MEZA FERNANDO A ESPARZA	2032 S 10TH AVE	YUMA	AZ	85364
OLEA JESUS G	2020 S 10TH AVE	YUMA	AZ	85364
PEREZ BENJAMIN & MARIA G JT	1061 S HEREFORD	YUMA	AZ	85364
PEREZ DIDIER	2063 S 10TH AVE	YUMA	AZ	85364
PEREZ MAYRA L	2032 S 9TH AVE	YUMA	AZ	85364
PHAN PHUONG D	3851 W 25TH LN	YUMA	AZ	85364
PIMBLE MICHAEL F	2033 S 10TH AVE	YUMA	AZ	85364
RANGEL RAMIRO HECTOR & MIREYA	2044 S 10TH AVE	YUMA	AZ	85364
REYES MERCEDES S	2074 S 10TH AVE	YUMA	AZ	
SHEETZ DARRELL L & IDA MARIE JT	2077 S 11TH AVE	YUMA	AZ	85364
SHINN IAN T	2069 S 10TH AVE	YUMA	AZ	85364
SHIPP MARIA R	645 S 9TH AVE	YUMA	AZ	85364
T3AZ LLC	5840 E 27TH PL	YUMA	AZ	85365

TRUJILLO ALFREDO TRUST 12-20-2001	13474 PIERCE STREET	SALINAS	CA	93906
VALDEZ CYRA	2062 S 9TH AVE	YUMA	AZ	85364
VELAZQUEZ ROSARIO C	2039 S 10TH AVE	YUMA	AZ	85364
VILLAPUDUA ENRIQUE ESPINOZA & DELIA V JT	2062 S 10TH AVE	YUMA	AZ	85364
WAGNER GLEN E	2027 S 10TH AVE	YUMA	AZ	85364
WARM PROPERTIES CA LLC	PO BOX 1452	LA JOLLA	CA	92038

**ATTACHMENT E
NEIGHBOR MAILING**

This is a request by Braulio Martinez, Jr., on behalf of Braulio Martinez, Sr., to rezone one parcel, approximately .17 acres, from the Low Density Residential (R-1-6) to the Medium Density Residential (R-2) District, for the property located at 2050 S.10th Avenue, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
ZONE-42650-2024**

NEIGHBORHOOD MEETING
05/15/2024 @ 5PM
ON-SITE

PUBLIC HEARING
06/24/2023 @ 4:30pm
City Hall Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 2050 S. 10th Avenue, Yuma, AZ, you are invited to attend these meetings to voice your comments. If you have questions or wish to submit written comments, please contact Zenia Fiveash by phone at (928) 373-5000 ext. 3040 or by email at Zenia.Fiveash@YumaAz.gov

ATTACHMENT F
AERIAL PHOTO



ORDINANCE NO. O2024-029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, REZONING CERTAIN PROPERTY LOCATED IN THE LOW DENSITY RESIDENTIAL (R-1-6) DISTRICT TO THE MEDIUM DENSITY RESIDENTIAL (R-2) DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM WITH THE REZONING

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on August 12, 2024 in Zoning Case no: ZONE-42650-2024 in the manner prescribed by law for the purpose of rezoning parcels of real property hereafter described to the Medium Density Residential (R-2) District as provided in Chapter 154 of the Yuma City Code; and,

WHEREAS, due and proper notice of the public hearing was given in the time, form, substance and manner provided by law, including publication of notice of the hearing in the Yuma Sun on May 31, 2024; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission to approve the rezoning in Case No: ZONE-42650-2024 and the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: That the following described real property, depicted in Exhibit A, attached:

A portion of land located in the West Half of the Northwest Quarter of the Southwest Quarter of Section 33, Township 8 South, Range 23 West, of the Gila and Salt River Base and Meridian, Yuma County, State of Arizona, and being more particularly described as follows;

Block 1, Lot 8 of the Atmar Subdivision No. 2, subdivision plat, Book 3, Page 102, Dated August 5, 1952 as recorded in Yuma County Recorder's Office, City of Yuma, State of Arizona.

Containing approximately 0.17 of an acre more or less.

shall be placed in the Medium Density Residential (R-2) District, as defined by Chapter 154 of the Yuma City Code as amended; that upon this Ordinance becoming final, the described real property shall be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the Medium Density Residential (R-2) District and that the zoning map adopted under Chapter 154 of the Yuma City Code,

as amended, is ordered to be changed and amended so as to show that the real property described in this Ordinance will be located within the Medium Density Residential (R-2) District, and

SECTION 2: That the following condition(s) must be met and/or completed in order for the zoning amendment to be final:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

SECTION 3: Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe, then the rezone shall be subject to A.R.S. §9-462.01.

Adopted this _____ day of _____, 2024.

APPROVED:

Douglas J. Nicholls
Mayor

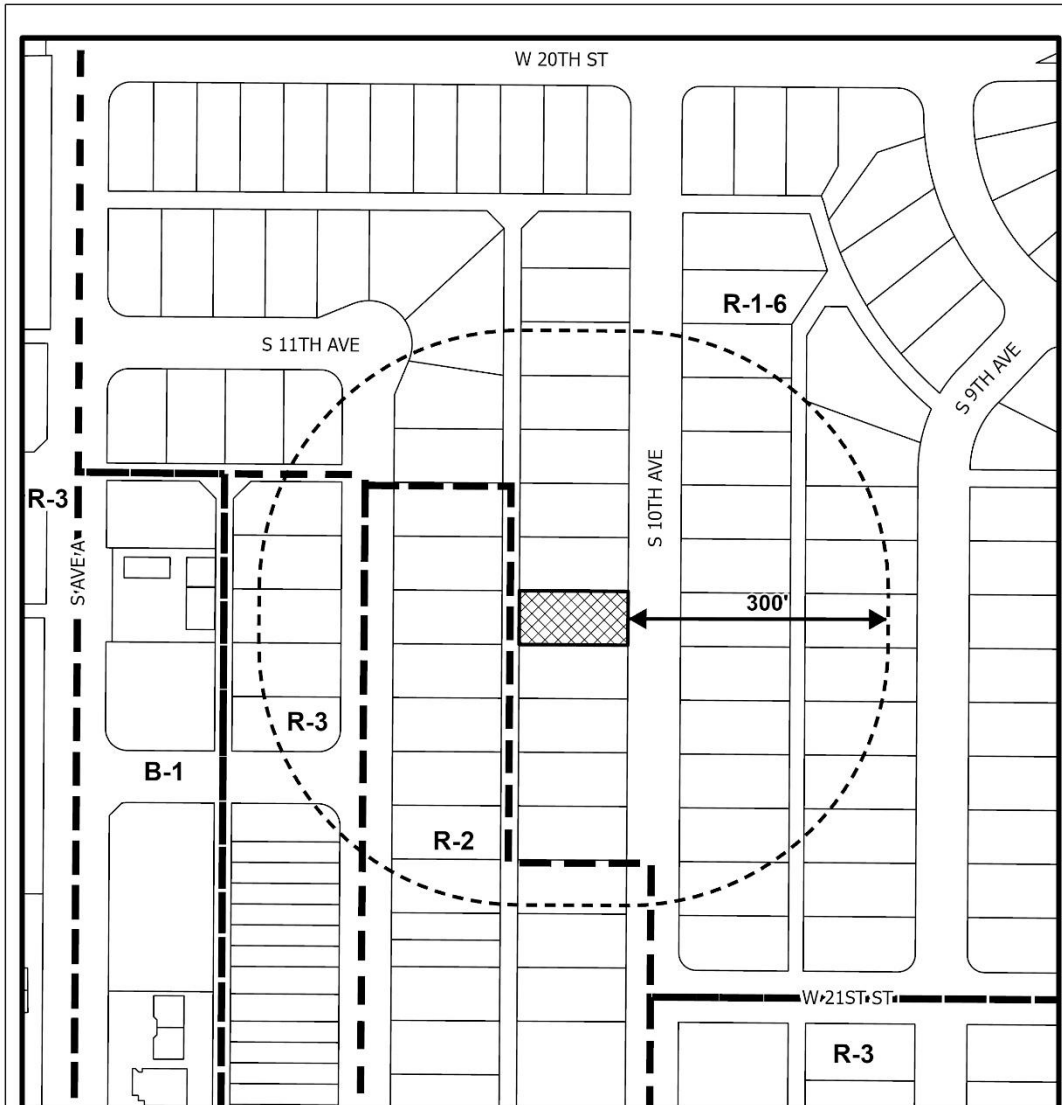
ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

Exhibit A



LOCATION MAP

 LOCATION OF SUBJECT PROPERTY

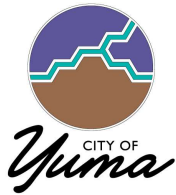


Prepared by: DG
Checked by: EP



Date: 4/24/2024
Revised:
Revised:

Case #:
ZONE-42650-2024



City of Yuma

City Council Report

File #: O2024-030

Agenda Date: 9/18/2024

Agenda #: 2.

<p>DEPARTMENT: City Attorney</p> <p>DIVISION: Administration</p>	<p>STRATEGIC OUTCOMES</p> <p><input type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>
--	--	--

TITLE:

Declare Real Property Surplus and Authorize Sale: 2495 South Sierra Vista Avenue

SUMMARY RECOMMENDATION:

Declare vacant City of Yuma owned real property surplus and authorize the sale of the surplus property located at 2495 South Sierra Vista Avenue. (City Attorney) (Richard W. Files)

STRATEGIC OUTCOME:

Sale of surplus City property supports the City Council's strategic outcome of Respected and Responsible as the sale generates City revenue, creates infill development opportunities for private development, converts unused parcels to a productive use, and generates property tax revenue for the City, school districts, and other taxing entities.

REPORT:

The City holds title to a vacant lot located at 2495 South Sierra Vista Avenue (City Parcel) south of 24th Street and east of Pacific Avenue. The subject property was a hoarder house which fell into disrepair and became a code enforcement action. The Yuma County Health Department and an independent engineering firm determined that the house was a public health and safety hazard creating danger to the surrounding neighbors and that the structure was so dilapidated it could not be saved. City Code Enforcement obtained an order to demolish the home to abate the dangers to life and health. Pursuant to Arizona Revised Statutes (A.R.S.) § 9-499 and Yuma City Code (Y.C.C.) § 150-090, the City undertook the expense to abate the dangerous conditions and filed a statutory lien for the costs of abatement against the property.

At the time the City was undertaking the expense to abate the dangerous conditions, the property taxes on the subject property were already delinquent. The property owner never paid the property tax lien and the property was subject to foreclosure. To protect the public funds used to abate the property and the statutory abatement lien, the City purchased the tax lien. The City eventually obtained title to the property through the statutory tax lien process and holds a Treasurer's Deed from the Yuma County Treasurer. Since the public health danger is abated, it is now time to return the vacant parcel to private ownership.

The City Parcel is approximately 9,284 sq. ft. It is contemplated the City Parcel will be offered for sale to the public utilizing a request for proposal or other competitive process, subject to a real property sale and development agreement to be approved by City Council. The agreement will include the terms relating to the timing of development as well as other development related terms and purchase price and closing instructions.

A General Plan Conformity Report will be prepared for the City Parcel to confirm the proposed use of the City Parcel is in conformance with the City’s General Plan.

The return of the City Parcel to the tax rolls will be in the best interest of the public as the public health danger has been abated on this property. The property is not necessary for a municipal use and holding title to the City Parcel creates ongoing maintenance requirements including insurance as well as aesthetic concerns for the neighborhood.

The attached proposed ordinance declares the City Parcel surplus and authorizes City staff to proceed with the sale of the property as described.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

The City would receive a one-time revenue of the purchase price of the City Parcel and will also realize a revenue increase associated with property tax collections. The City will realize a cost savings by no longer maintaining and insuring the City parcel.

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

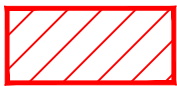
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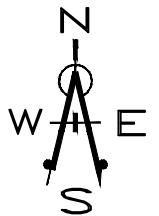
Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



LEGEND



OWNER: CITY OF YUMA
2495 SIERRA VISTA AVENUE



LOCATION MAP

NOTE: THIS MAP IS PREPARED TO SHOW GENERAL SITE LOCATION ONLY.

Prepared by: JOHN NYE	CITY OF YUMA ENGINEERING DEPARTMENT	Date: 8-28-2024
		SCALE: N.T.S.

ORDINANCE NO. O2024-030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, DECLARING CERTAIN CITY-OWNED REAL PROPERTY, HEREAFTER DESCRIBED, SURPLUS FOR CITY USE AND AUTHORIZING THE SALE OF THE SURPLUS PROPERTY THROUGH A COMPETITIVE PROCESS

WHEREAS, the City of Yuma (City) is authorized, pursuant to the Yuma City Charter, Article III, Section 2, to acquire and dispose of real property; and,

WHEREAS, the City acquired certain real property through a tax lien process and now that the public health and safety hazard has been abated, there is no further public use for the property; and,

WHEREAS, the excess parcel of real property described in Exhibit A can be returned through a competitive public sale to private ownership and placed on the property tax roll as a productive use within the City.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: The parcel of real property described in Exhibit A, attached and by this reference made a part of this Ordinance, is declared surplus for use by the City and the sale of the surplus property serves the public interest of the City and would be of public benefit.

SECTION 2: City staff is authorized and directed to perform all acts necessary to effectuate the exchange or sale of the City Property through the use of a Request For Proposal or other competitive process, with the award of the sale documented in a real property sale and disposition agreement approved by City Council that, among other things, includes conditions relating to the timing of development of the surplus parcel, and other development related considerations, all in accordance with the conditions of this ordinance.

SECTION 3: The City Administrator is authorized to execute all necessary documents on behalf of the City of Yuma to affect the sale and transfer of the City surplus property identified in Exhibit A.

Adopted this ___ day of _____, 2024.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Richard Files
City Attorney

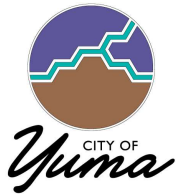
EXHIBIT A

Legal Description Surplus Parcel

Lot 38, Engler Estates Subdivision, Unit One, according to Book 3 of Plats, Page 154, records of Yuma County, Arizona, and Affidavit of Correction recorded in Docket 157, page 489, records of Yuma County, Arizona.

Section 02, Township 09S, Range 23 W, Yuma County, Arizona

Situs Address: 2495 S. Sierra Vista Avenue, Yuma, Arizona 85365



City of Yuma

City Council Report

File #: O2024-031

Agenda Date: 9/18/2024

Agenda #: 3.

	STRATEGIC OUTCOMES	ACTION
<p>DEPARTMENT: Planning & Neighborhood Svc</p> <p>DIVISION: Community Planning</p>	<p><input checked="" type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p><input type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input type="checkbox"/> Public Hearing</p>

TITLE:
Rezoning of Property: 1651 S. Arizona Avenue

SUMMARY RECOMMENDATION:

Approve the rezoning of an approximately 19,166 square foot lot from the Limited Commercial (B-1) District to the General Commercial (B-2) District, located at 1651 S. Arizona Avenue. (ZONE-42890-2024)(Planning and Neighborhood Services/ Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

The rezoning of the property will support expanded commercial development that will be responsibly constructed, meeting all codes and requirements. This rezone assists in furthering the City Council’s strategic outcomes as it relates to Safe and Prosperous and Respected and Responsible.

REPORT:

The property is the site of Sun of a Gun Cigars. The 1,676 square foot building was built in 1980 for the Marine Air Federal Credit Union, which later moved to a new building to the south.

The Limited Commercial (B-1) District lists a cocktail lounge or bar as needing a Conditional Use Permit. Sun of a Gun Cigars recently applied for sign permits to advertise a "beer garden" and the promotion of wine sales.

Since the subject property is surrounded by developed General Commercial (B-2) properties, and as an alternative to a Conditional Use Permit for a specific use, the property owner decided to proceed with a rezoning to B-2 which allows a cocktail lounge or bar as a permitted use. There are no residences within 300 feet of the subject property.

The request to rezone the property from the Limited Commercial (B-1) District to the General Commercial (B-2) District is in conformance with the Commercial Land Use Category in the General Plan.

On August 12, 2024, The Planning and Zoning Commission voted to recommend **APPROVAL** of the rezoning from the Limited Commercial (B-1) District to the General Commercial (B-2) District, subject to the following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable

to this action.

- 2. The Owner’s signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
- 3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to A.R.S. § 9-462.01.

Public Comments- Excerpt from Planning and Zoning Commission Meeting Minutes:

Robert Blevins, Principal Planner, summarized the staff report and recommended APPROVAL.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANT’S REPRESENTATIVE

None

“Motion by Joshua Scott, Planning and Zoning Commissioner, second by Ashlie Pendleton, Planning and Zoning Commissioner to APPROVE ZONE-42890-2024 as presented.

“Motion carried unanimously, (5-0) with two absent.’

Planning Commission Staff Report- Attached

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

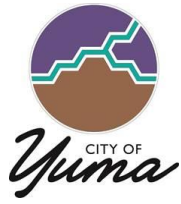
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



STAFF REPORT TO THE PLANNING AND ZONING COMMISSION
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – REZONE
CASE PLANNER: BOB BLEVINS

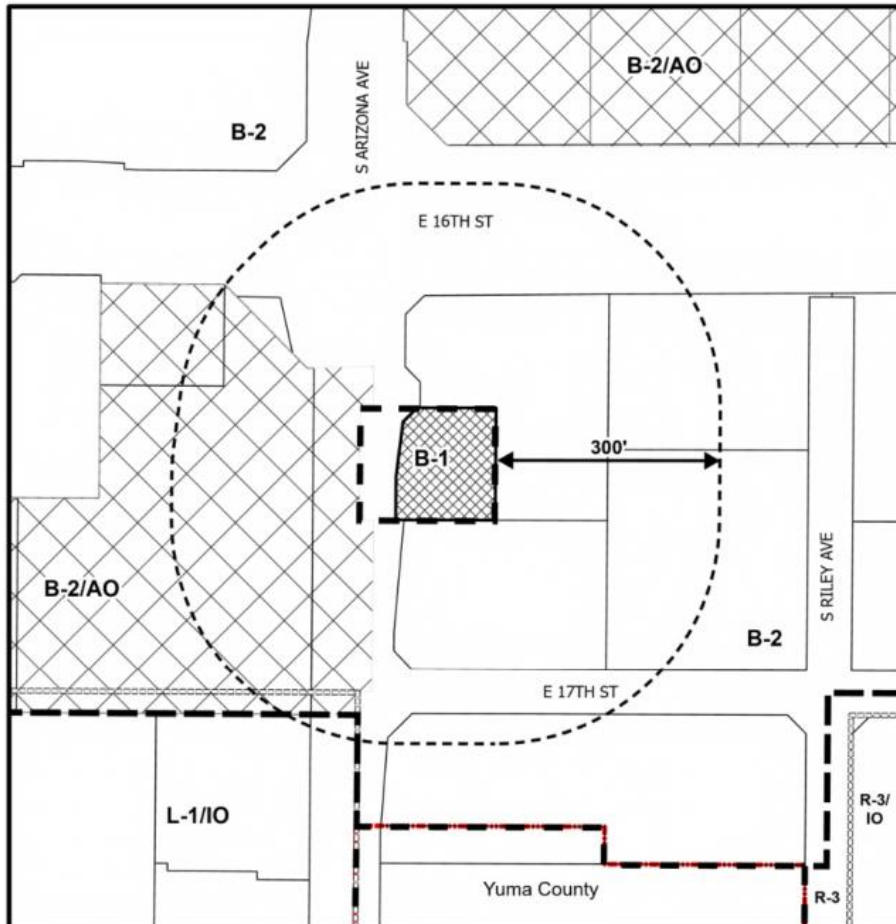
Hearing Date: August 12, 2024

Case Number: ZONE-42890-2024

Project Description/Location: This is a request by Brenda Maldonado of Sun of a Gun Cigars to rezone an approximately 19,166 square foot lot from the Limited Commercial (B-1) District to the General Commercial (B-2) District, for the property located at 1651 S. Arizona Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Limited Commercial (B-1)	Sun of a Gun Cigars	Commercial
North	General Commercial (B-2)	Cretin's Restaurant	Commercial
South	General Commercial (B-2)	Navy Federal Credit Union	Commercial
East	General Commercial (B-2)	Cretin's Restaurant	Commercial
West	General Commercial / Aesthetic Overlay (B-2/AO)	Budgetel Hotel	Commercial

Location Map



Prior site actions: Annexation: #1649 (10/10/1977); Rezone Z78-08 from County C-2 to City Business A (Ordinance 1731, 05/03/1978).

Staff Recommendation: Staff recommends **APPROVAL** of the rezoning from the Limited Commercial (B-1) District to the General Commercial (B-2) District, subject to the conditions shown in Attachment A.

Suggested Motion: Move to **APPROVE** Rezone ZONE-42890-2024 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

Effect of the Approval: By approving the rezone, the Planning and Zoning Commission is recommending approval to the City Council for the request to rezone an approximately 19,166 square foot lot from the Limited Commercial (B-1) District to the General Commercial (B-2) District, for the property located at 1651 S. Arizona Avenue, Yuma, AZ., subject to the conditions outlined in Attachment A, and affirmatively finds that the request is in conformance with the City of Yuma General Plan.

Staff Analysis: The property is the site of Sun of a Gun Cigars. The 1,676 square foot building was built in 1980 for the Marine Air Federal Credit Union, which later moved to a new building to the south.

Zoning & General Plan:

The Limited Commercial (B-1) District lists a cocktail lounge or bar as needing a Conditional Use Permit. Sun of a Gun Cigars recently applied for sign permits to advertise a "beer garden" and the promotion of wine sales.

Since the subject property is completely surrounded by developed General Commercial (B-2) properties, and as an alternative to a Conditional Use Permit for a specific use, it was decided to proceed with a rezoning to B-2 which allows a cocktail lounge or bar as a permitted use. Additionally- there are no residences within 300 feet of the subject property.

The request to rezone the property from the Limited Commercial (B-1) District to the General Commercial (B-2) District is in conformance with the Commercial Land Use Category in the General Plan.

1. Does the proposed zoning district conform to the Land Use Element?

Yes.

Land Use Element:									
Land Use Designation:				Commercial					
Issues:				None					
Historic District:	Brinley Avenue		Century Heights		Main Street		None	X	
Historic Buildings on Site:		Yes		No	X				

2. Are there any dedications or property easements identified by the Transportation Element?

No.

FACILITY PLANS						
Transportation Master Plan	Planned	Existing	Gateway	Scenic	Hazard	Truck
Arizona Avenue- 2 Lane Collector Street	40 FT H/W ROW	50 FT+ H/W ROW				X
Bicycle Facilities Master Plan	Arizona Avenue – Proposed Bike Lane					
YCAT Transit System	Arizona Avenue- Green Route					
Issues:	None					

3. Does the proposed rezoning of the property conform to the remaining elements of the general plan?

Yes.

Parks, Recreation and Open Space Element:										
Parks and Recreation Facility Plan										
Neighborhood Park:	Existing: Joe Henry Optimist Park					Future: Joe Henry Optimist Park				
Community Park:	Existing: Kennedy Memorial Complex					Future: Kennedy Memorial Complex				
Linear Park:	Existing: East Main Canal					Future: East Main Canal				
Issues:	None									
Housing Element:										
Special Need Household:	N/A									
Issues:	None									
Redevelopment Element:										
Planned Redevelopment Area:	N/A									
Adopted Redevelopment Plan:	North End:		Carver Park:		None:	X				
Conforms:	Yes	X	No							
Conservation, Energy & Environmental Element:										
Impact on Air or Water Resources	Yes		No	X						
Renewable Energy Source	Yes		No	X						
Issues:	None									
Public Services Element:										
Population Impacts Population projection per 2018-2022 American Community Survey Police Impact Standard: 1 officer for every 530 citizens; 2020 Conservation Plan Water demand: 207 gallons/day/person; Wastewater generation: 70 gallons per day per person	Dwellings & Type		Projected Population	Police Impact	Water Consumption		Wastewater Generation			
	Non-residential				Officers	GPD		AF	GPD	
	Maximum	Per Unit								
	0	0	0	0.00	0	0.0	0			
Minimum										
0	0	0	0.00	0	0.0	0				
Fire Facilities Plan:	Existing: Fire Station No. 4					Future: Fire Station No. 4				
Water Facility Plan:	Source:	City	X	Private	Connection:	16" line on Arizona Avenue				
Sewer Facility Plan:	Treatment:	City	X	Septic	Private	Connection: 8" line on 16 th St.				
Issues:	None									
Safety Element:										
Flood Plain Designation:	X			Liquefaction Hazard Area:			Yes		No	X
Issues:	None									

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning, Bob Blevins, Principal Planner (928) 373-5189:

3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**ATTACHMENT B
AGENCY NOTIFICATIONS**

- **Legal Ad Published: The Sun** 07/19/24
- **300' Vicinity Mailing:** 06/24/24
- **34 Commenting/Reviewing Agencies noticed:** 06/27/24
- **Hearing Date:** 08/12/24
- **Comments due:** 07/08/24
- **Site Posted on:** 07/09/24

External List (Comments)	Response Received	Date Received	“No Comment”	Written Comments	Comments Attached
Yuma County Airport Authority	YES	07/01/24	X		
Yuma County Engineering	YES	06/27/24	X		
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	06/27/24	X		
Yuma County Planning & Zoning	YES	06/28/24	X		
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	07/03/24	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	“No Conditions”	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineer	YES	07/10/24	X		
Fire	YES	08/28/24	X		
Building Safety	YES	07/08/24	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	NR				
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT C
NEIGHBOR NOTIFICATION LIST**

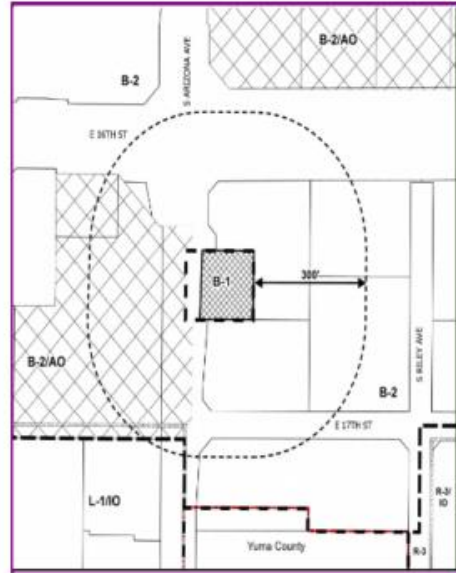
Property Owner	Mailing Address	City	State	Zip Code
FTS AUTOMOTIVE CENTER INC	1701 S ARIZONA AVE	YUMA	AZ	85364
KINGMAN HOTEL PARTNERS LLC	1700 EUREKA RD STE 160	ROSEVILLE	CA	95661
LAU KAM WO & LILY L TRUST 8-12-98	2079 ADMIRAL PL	SAN JOSE	CA	95133
NAVY FEDERAL CREDIT UNION	PO BOX 24626	MERRIFIELD	VA	22119
SOL ZEED LLC	14 CARAWAY COURT	PRINCETON	NJ	08540
UNDERHILL TRANSFER CO	PO BOX 562	YUMA	AZ	85366
WEST COAST LODGING LLC	1640 S ARIZONA AVE	YUMA	AZ	85364
WEST COAST LODGING LLC	1640 S ARIZONA AVE	YUMA	AZ	85364
WESTERN NEWS&INFO INC AZ CORP	8303 E HWY 69	PRESCOTT VALLEY	AZ	86314

**ATTACHMENT D
NEIGHBOR MAILING**

This is a request by Brenda Maldonado of Sun of a Gun Cigars to rezone an approximately 19,166 square foot lot from the Limited Commercial/Infill Overlay (B-1/IO) District to the General Commercial/Infill Overlay (B-2/IO) District, for the property located at 1651 S. Arizona Avenue, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
ZONE-42890-2024**

PUBLIC HEARING
8/12/2024 @ 4:30 PM
City Hall Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 1651 S. Arizona Avenue, Yuma, AZ., you are invited to attend the meetings to voice your comments. If you have questions or wish to submit written comments, please contact Robert Blevins by phone at (928) 373-5189 or by email at Robert.Blevins@YumaAz.gov

ATTACHMENT E
AERIAL PHOTO



ORDINANCE NO. O2024-031

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, REZONING CERTAIN PROPERTY LOCATED IN THE LIMITED COMMERCIAL (B-1) DISTRICT TO THE GENERAL COMMERCIAL (B-2) DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM WITH THE REZONING

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on August 12, 2024 in Zoning Case No: ZONE-42890-2024 in the manner prescribed by law for the purpose of rezoning one parcel of real property hereafter described to the General Commercial (B-2) District as provided in Chapter 154 of the Yuma City Code; and,

WHEREAS, due and proper notice of the public hearing was given in the time, form, substance and manner provided by law, including publication of notice of the hearing in the Yuma Sun on July 19, 2024; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission to approve the rezoning in Case No: ZONE-42890-2024 and the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: The following described real property, depicted in Exhibit A, attached:

Parcel 2 of the Marine Air Federal Credit Union Lot Split, except right-of-way per fee# 2009-17483, in Section 34, Township 08S, Range 23W, Gila and Salt River Base and Meridian, in the City of Yuma, according to the plat of record in Book 9 of Plats, page 62, in the office of the County Recorder of Yuma County, Arizona;

Containing 19,166 square feet, more or less

shall be placed in the General Commercial (B-2) District, as defined by Chapter 154 of the Yuma City Code as amended; that upon this Ordinance becoming final, the described real property shall be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the General Commercial (B-2) District and that the zoning map adopted under Chapter 154 of the Yuma City Code, as amended, is ordered to be changed and amended so as to show that the real property described in this Ordinance will be located within the General Commercial (B-2) District.

SECTION 2: The following conditions (s) must be met and/or completed in order for the zoning amendment to be final:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

SECTION 3: Except for Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above time frame, then the rezone shall be subject to A.R.S. § 9-462.01.

Adopted this _____ day of _____, 2024.

APPROVED:

Douglas J. Nicholls
Mayor

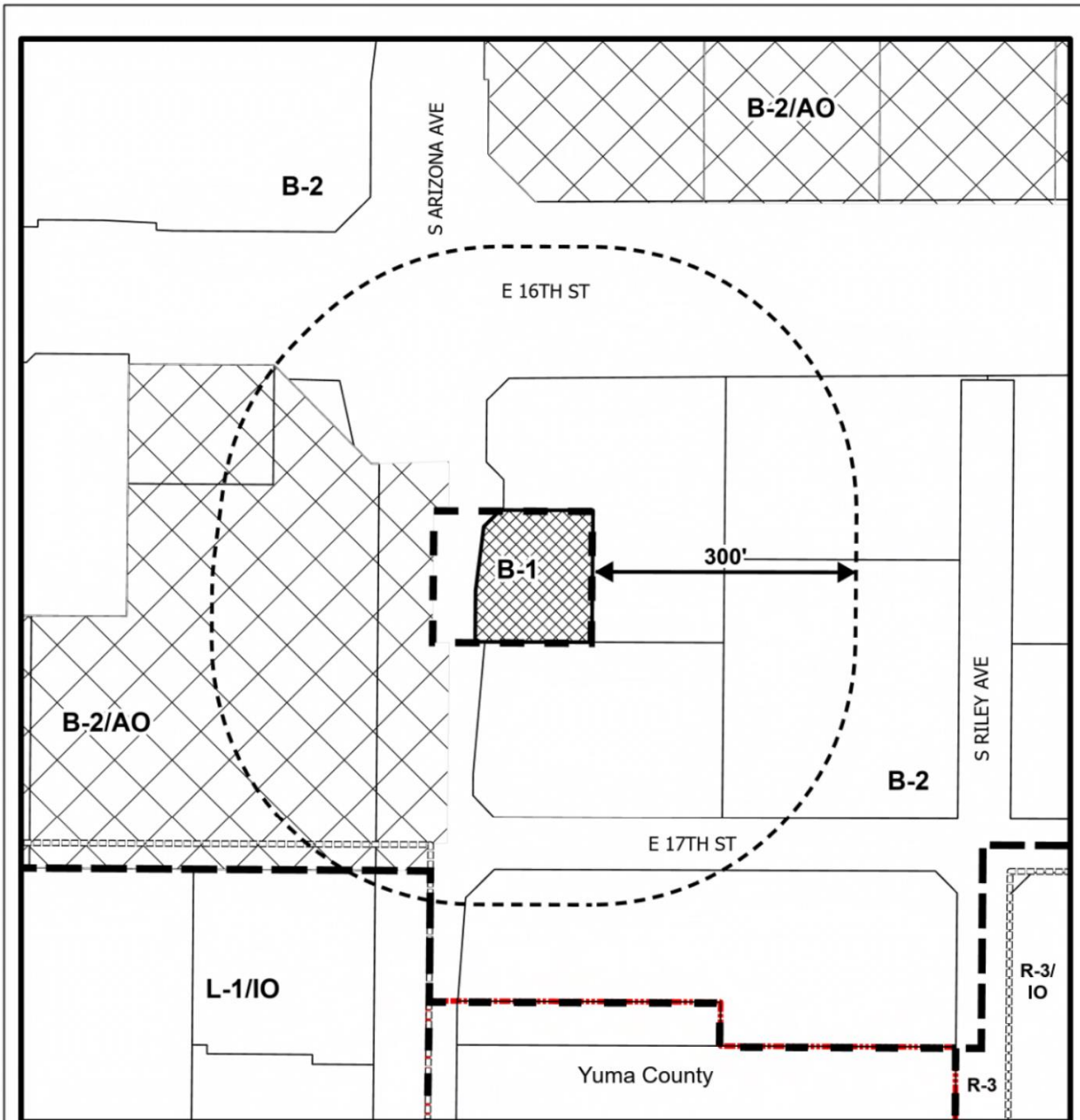
ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

Exhibit A



LOCATION MAP

 LOCATION OF SUBJECT PROPERTY

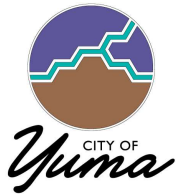


Prepared by: DG
Checked by: RB



Date: 7/12/2024
Revised:
Revised:

Case #:
ZONE-42890-2024



City of Yuma

City Council Report

File #: O2024-032

Agenda Date: 9/18/2024

Agenda #: 1.

<p>DEPARTMENT: Planning & Neighborhood Svc</p> <p>DIVISION: Community Planning</p>	<p>STRATEGIC OUTCOMES</p> <p><input checked="" type="checkbox"/> Safe & Prosperous</p> <p><input type="checkbox"/> Active & Appealing</p> <p><input checked="" type="checkbox"/> Respected & Responsible</p> <p><input type="checkbox"/> Connected & Engaged</p> <p><input type="checkbox"/> Unique & Creative</p>	<p>ACTION</p> <p><input type="checkbox"/> Motion</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Ordinance - Introduction</p> <p><input type="checkbox"/> Ordinance - Adoption</p> <p><input checked="" type="checkbox"/> Public Hearing</p>
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TITLE:

Amendment: Ordinance O2022-032

SUMMARY RECOMMENDATION:

Pursuant to A.R.S. § 9-462.01, conduct a public hearing to determine compliance with the conditions of approval for Rezoning Ordinance O2022-032, and introduce an ordinance to amend O2022-032 to extend the time to comply with the rezoning conditions. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

This statutory compliance hearing and ordinance will validate the zoning for existing and future residential development that will be responsibly constructed, meeting all codes and requirements. This statutory compliance hearing furthers the City Council’s strategic outcomes of Safe and Prosperous and Respected and Responsible.

REPORT:

On August 17, 2022, the City Council adopted Ordinance O2022-032, authorizing the property located at the northwest corner of 37th Street and Avenue 10E to be rezoned from the Low Density Residential (R-1-40) District to the Medium Density Single-Family Residential (R-2-5) District. Ordinance O2022-032 required that the following conditions be completed within two years of approval:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner’s signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement and Range Disclosure on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.
4. The Owner/Developer shall dedicate right-of-way for a total of 50 feet half-width on Avenue 10E.

- 5. The Owner/Developer shall construct the half-width of Avenue 10E per Yuma County Standard 2-220 with a five-foot sidewalk.
- 6. Each of the conditions listed above shall be completed within two years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to A.R.S. § 9-462.01.

The property was rezoned as a single zoning case (ZONE-39444-2022) in which conditional zoning to the Medium Density Single-Family Residential (R-2-5) District was approved based upon the completion of the six conditions of approval within two years. The Medium Density Single-Family Residential (R-2-5) District zoning expired because the owner of the parcel had yet to complete the required easement, paving, and right-of-way dedications. The current property owner will satisfy the remaining conditions required to validate the zoning through the subdivision process. The subdivision preliminary plat for Butler Estates Unit 2 (SUBD-40583-2022) was approved in 2023 with a three-year deadline.

DETERMINATION:

Arizona Revised Statutes § 9-462.01(E) states that if the time for completion of a condition has expired, the City shall notify the owner, schedule a public hearing, and take administrative action to “extend, remove, or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.” In this case, the property owner will complete all conditions of approval required under Zoning Case ZONE-39444-2022 and still wants the property rezoned to the Medium Density Single-Family Residential (R-2-5) District.

RECOMMENDATION:

At the close of the public hearing, staff recommends that City Council introduce the attached ordinance which amends Ordinance O2022-032 by extending the deadline for compliance from two years to four years. A location map is attached.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
-			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

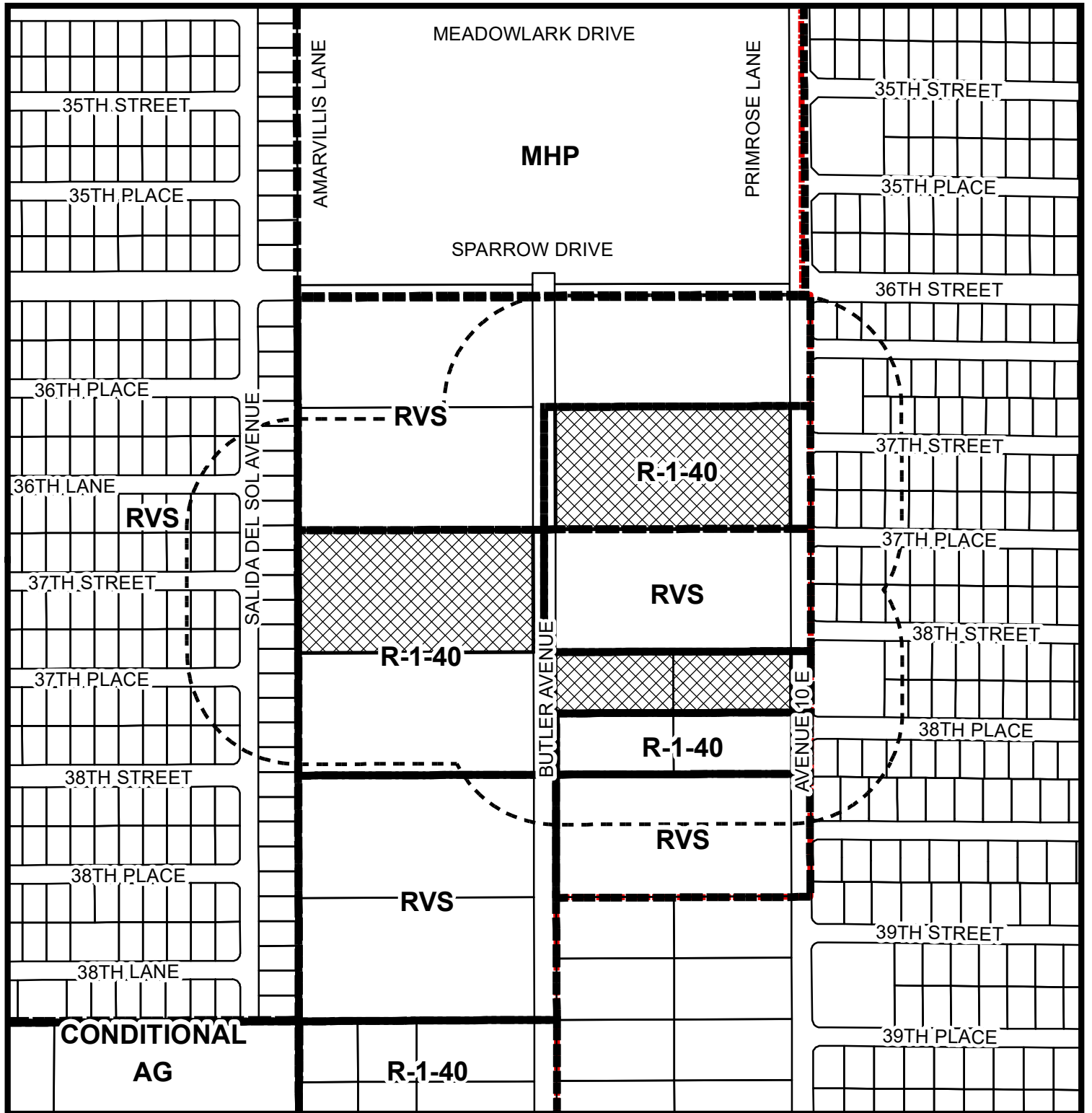
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

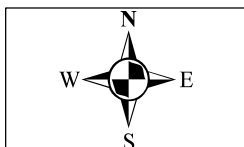
Acting City Administrator: John D. Simonton	Date: 9/9/2024
Reviewed by City Attorney: Richard W. Files	Date: 9/6/2024



LOCATION MAP



LOCATION OF SUBJECT PROPERTY



Prepared by: GIS

Checked by:



Date: 04-28-2022

Revised:

Revised:

Case #:

ZONE-039444-2022

ORDINANCE NO. O2024-032

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING ORDINANCE O2022-032 TO EXTEND THE TIME FOR COMPLIANCE WITH CONDITIONS FOR THE REZONING OF CERTAIN PROPERTY FROM THE LOW DENSITY RESIDENTIAL (R-1-40) DISTRICT TO THE MEDIUM DENSITY RESIDENTIAL (R-2-5) DISTRICT AND AMENDING THE ZONING MAP TO CONFORM THERETO

WHEREAS, the City Council adopted Ordinance O2022-032 on August 17, 2022, rezoning certain properties subject to conditions which have not been fully met; and,

WHEREAS, pursuant to Arizona Revised Statutes (A.R.S.) § 9-462.01 and Ordinance No. O2022-032, a statutory compliance hearing was held on September 18, 2024, and this amendment to Ordinance No. O2022-032 was introduced; and,

WHEREAS, the City seeks to resolve the outstanding conditions to bring the property into compliance with the rezoning to the Medium Density Residential (R-2-5) District,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: That the words “two (2) years” in Section 3 of Ordinance O2022-032 is amended to “four (4) years.”

SECTION 2: Subject to this amendment, Ordinance No. O2022-032 shall remain in full force and effect.

Adopted this _____ day of _____, 2024.

APPROVED:

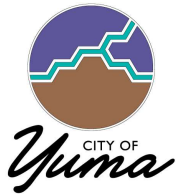
Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney



City of Yuma

City Council Report

File #: MC 2024-141

Agenda Date: 9/18/2024

Agenda #: 1.

DEPARTMENT: Planning & Neighborhood Svc	STRATEGIC OUTCOMES <input type="checkbox"/> Safe & Prosperous <input type="checkbox"/> Active & Appealing	ACTION <input type="checkbox"/> Motion <input type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible <input type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Ordinance - Introduction <input type="checkbox"/> Ordinance - Adoption <input checked="" type="checkbox"/> Public Hearing
DIVISION: Community Planning		

TITLE:
Variance Appeal: VAR-42764-2024 - 963 S. Latisha Way

SUMMARY RECOMMENDATION:
The City Council will hear and decide this variance appeal in a quasi-judicial capacity as a statutory board of adjustment pursuant to Arizona Revised Statutes (A.R.S.) Section 9-462.06 and Yuma City Code (Y.C.C.) §154-02.02. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:
NOT APPLICABLE

REPORT:
This appeal concerns the denial of a variance application sought by the property owner and Appellant, Mario Polanco. The variance was heard on July 11, 2024, before Hearing Officer Raymond Urias, who found that the request for a variance did not meet two of the four criteria necessary to grant a variance. The four criteria are found in Y.C.C. § 154-03.04(D) and A.R.S. § 9-462.06.

BACKGROUND
Appellant Polanco sought the Hearing Officer’s approval of VAR-42764-2024 to reduce the minimum front yard setback from 20 feet to 8 feet to allow the installation of a metal shade structure. The Department of Planning and Neighborhood Services staff report for Appellant’s requested variance is attached to this City Council Report (Council Report) and recommends denial.

Section 154-02.02 of the Yuma City Code establishes the Hearing Officer variance procedure. Consistent with A.R.S. § 9-462.06, in order to approve an application for a variance, Y.C.C. § 154-03.04(D) requires a finding that the application satisfies all four of the criteria for the approval of a variance. Specifically, Y.C.C. § 154-03.04(D)(1) states that the Hearing Officer:

. . . shall grant a variance(s) only when findings of fact are made that all of the following conditions exist:

- (a) There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.
- (b) The special circumstance was not created or caused by the property owner or applicant.
- (c) The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.
- (d) The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.

As set forth in the cited Yuma City Code, each of the four (4) criteria required for the approval of a variance application must be answered in the affirmative. The inability to answer any one of the four (4) criteria in the affirmative, as a matter of law, must result in the denial of the variance application.

PROCEDURE

The public hearing on Appellant's variance application was heard by Hearing Officer Raymond Urias. After taking testimony on Appellant's variance application, Hearing Officer Urias denied the Applicant's request to reduce the minimum front yard setback from 20 feet to 8 feet to allow the installation of a metal shade structure because the variance application failed to meet two (2) of the four (4) criteria as required by Y.C.C. § 154-03.04(D). The minutes from the July 11, 2024, Hearing Officer Meeting are attached to this Council Report.

After the variance hearing, City staff notified Appellant of the right to appeal the decision and Appellant timely filed the appeal. The July 11, 2024, notice from the City and the July 13, 2024, response Notification of Appeal from Appellant are attached to this Council Report.

On July 23, 2024, City staff sent Appellant Polanco the appeal date of September 18, 2024 as well as deadlines for submission of any additional material by either the Appellee Department of Planning and Neighborhood Services or by Appellant Polanco. Appellant Polanco agreed to this schedule. Appellant's deadline to submit any additional material was August 12, 2024. As the Appellee, Planning and Neighborhood Services' deadline to submit any additional material was August 22, 2024. The July 23, 2024, schedule is attached to this Council Report.

As of the date of this Council Report, Appellant Polanco opted not to submit any additional material before the Appellant's deadline and no attorney has entered an appearance on behalf of the Appellant. The Department of Planning and Neighborhood Services, as the Appellee, has been advised by the City Attorney's Office, which must conflict out of representing the City Council for the appeal. Former Prescott City Attorney, Jon Paladini, will serve as attorney for the City Council during the hearing.

On August 19, 2024, Assistant Planner, Guillermo Moreno-Nunez, submitted a timely brief in support of the Hearing Officer's decision. The Department of Planning and Neighborhood Services brief is attached to this City Council Report. Assistant Planner Moreno-Nunez will present City staff's position during the hearing.

STANDARD OF REVIEW

City Council will hear this appeal as a statutory board of adjustment which decides appeals from Hearing

Officer decisions concerning zoning ordinance variances under the four described criteria and determines whether “special circumstances” exist to relieve an owner of property from strict application of zoning laws. A.R.S. § 9-462.06(G)(2).

The quasi-judicial body hears the appeal *de novo* (meaning, with brand new eyes), but the authority to modify zoning decisions under a variance is limited to making findings that all four criteria are met (in which case the City Council could choose to grant the variance) or any one of the four criteria are not met (in which case the City Council would have to deny the variance). *Pawn 1st, LLC v. City of Phoenix*, 242 Ariz. 547, 551 ¶¶ 11 (Arizona Supreme Court, 2017).

Appellant Polanco has the burden of persuasion to show that the application for a variance should have been granted by the hearing officer. A variance is only authorized when there is a finding that the applicant affirmatively establishes and satisfies all four (4) criteria in the Yuma City Code and Arizona Revised Statutes. *Pawn 1st, LLC v. City of Phoenix*, 242 Ariz. 547, 552 ¶¶ 12 (Arizona Supreme Court, 2017). A quasi-judicial body granting a variance without affirmatively finding that all four (4) Y.C.C. criteria are established is outside of the statutory powers and the finding is invalid as a matter of law. *Arkules v. Bd. of Adjustment of Paradise Valley*, 151 Ariz. 438, 440 (Arizona Court of Appeals, 1986).

The following documents are attached and submitted for City Council’s review:

Hearing Officer Staff Report	Hearing Officer Minutes
July 11, 2024 Notice of Right to Appeal	July 13, 2024 Appellant’s Notice of Appeal
July 23, 2024 Appeal Schedule	
Appellee Department of Planning and Neighborhood Services brief in support of the Hearing Officer’s decision dated August 19, 2024	

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

To total; right click number & choose “Update Field”		

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

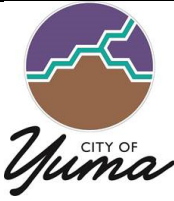
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- Department
- City Clerk's Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 09/10/2024
Reviewed by City Attorney: Richard W. Files	Date: 09/09/2024



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Guillermo Moreno-nunez**

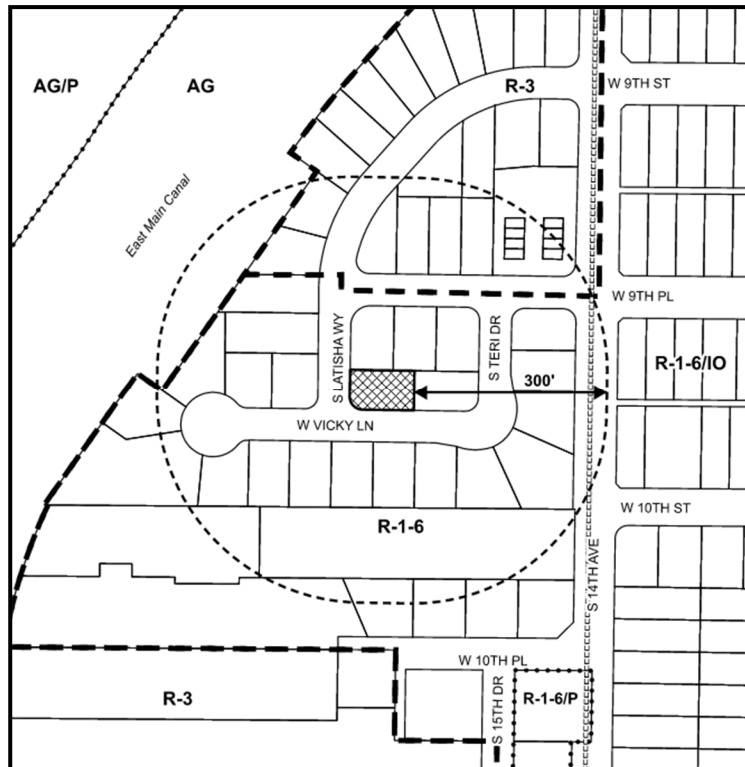
Hearing Date: JULY 11, 2024

Case Number: VAR-42764-2024

Project Description/Location: This is a request by Mario and Concepcion Polanco, for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Low Density Residential (R-1-6)	Single Family Home	Low Density Residential
North	Low Density Residential (R-1-6)	Single Family Home	Low Density Residential
South	Low Density Residential (R-1-6)	Single Family Home	Low Density Residential
East	Low Density Residential (R-1-6)	Single Family Home	Low Density Residential
West	Low Density Residential (R-1-6)	Single Family Home	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. 787 (December 31, 1959); Subdivision: Westridge South (August 24, 1984); Code Enforcement Case No. CODE-BS-008943-2023.

Staff recommendation:

Staff recommends **DISAPPROVAL** of the request to reduce the minimum front yard setback from 20 feet to 8 feet for the installation of a metal shade structure, in the Low Density Residential (R-1-6) District, for the property located at 963 S Latisha Way, Yuma, AZ, because it does not meet the criteria of §154-03.04 of the Yuma City Code.

Although staff is not recommending approval, if a variance is granted staff recommends that the variance be conditioned to include conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?	No.
--	-----

Staff Analysis:

The subject property is located at 963 S Latisha Way, within the Westridge South Subdivision, which was recorded August 24, 1984. The property is approximately 6,214 square feet in size and is currently developed with a single-family home featuring an approximate 465 square foot attached garage. The parcel is zoned Low Density Residential (R-1-6) District which is subject to the following development standards: minimum 20-foot front yard setback, 7-foot side yard setback, 10-foot street side yard setback and 10-foot rear yard setback. Additionally, the subject property has an 8-foot utility easement along the west and south property lines; the setbacks and easement must be maintained free of any structures.

The applicant is requesting to reduce the minimum front yard setback from 20 feet to 8 feet for a 240 square foot metal shade structure for parking vehicles. The City of Yuma Code Enforcement received the complaint, stating that a 400 square foot shade structure had been built in the front yard setback, without permits (CODE-BS008943-2023). The property owner is proposing to modify or replace the structure to avoid encroaching into the 8-foot utility easement. However, the structure will encroach 12 feet into the required front yard setback.

After analyzing the subject property, staff has determined that there are no special circumstances regarding this property in relation to its size, shape, or elevation. Additionally, the applicant has not demonstrated a special circumstance that applies to the property that would warrant a variance. Similar to other adjacent properties in the surrounding neighborhood, this property has a two-car garage meeting the minimum required legal parking for a single-family home.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) *“There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”*

Is this statement correct for this application?

Yes

No

Applicant Response: *“My property located on 963 S Latisha Way Yuma, AZ 85364-9016, is a corner home between S Latisha Way and Vicky Ln resulting in reduced space for our*

vehicles to park overall. The northeastern side of my property is where the service drop, and drainage are placed making it impossible to construct anything. On the Southeastern side of my property the main telephone cable line and the water main are stationed, therefore unable to construct as well. Since my property is unevenness to the front of my home, I am completely unable to build anywhere inside my property except the front of my garage!"

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance or condition does not apply to the property that does not apply to most other properties within the district and surrounding development. This property is developed with a single-family home featuring a two car garage, which is the minimum legal required parking for single family home, just as any other home in the neighborhood. Because there is no special circumstance that applies to this property, approval of this variance would grant special privileges to the property owner. In addition, approval of this variance may set a precedent for other variances to be pursued within this neighborhood and zoning district.

B) "The special circumstance was not created or caused by the property owner or applicant."

Is this statement correct for this application?

Yes No

Applicant Response: "All these circumstances were placed prior to my purchasing."

Staff Analysis: There is no special circumstance that applies to this property.

C) "The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations."

Is this statement correct for this application?

Yes No

Applicant Response: "Being able to have my shade in front of my garage has provided my family and I the ability to fully use our driveway providing a safer exit and entry from our home to our vehicle and vice versa. According to Arizona University study: "Hot cars can hit at deadly temperatures" the cars cabin under the sun for an hour can reach scorching temperatures of 116 degrees compared to a cars cabin under the shade for an hour was closer to 100 degrees providing a 16-degree difference. This difference provides my family and I the health safety of being able to use a vehicle a bit cooler in temperature then a blistering hot oven."

Staff Analysis: The granting of the variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. All property owners within the Westridge South Subdivision are required to comply with the development standards of the Low Density Residential (R-1-6) District, including minimum required setbacks. Properties within the neighborhood are developed with similar single-family homes with two car garages, similar in size as the subject property, and meeting minimum required front yard setbacks. The granting of the variance should not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the district.

D) "The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or

to the public health, safety, and general welfare.”

Is this statement correct for this application?

Yes No

Applicant Response: *“The shade is fire resistant placed only in my driveway area and only in my property away from any neighbors’ properties. The granting of having my shade in front of my garage will not be detrimental to anyone residing, or working in the vicinity, to adjacent to my property, to the neighborhoods or to the public health, safety, and general welfare”.*

Staff Analysis: The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, and to the public health, safety, and general welfare.

2. Are any of the adjacent property owners opposed to this request? No.

Public Comments Received: No.

External Agency Comments: None Received.

Neighborhood Meeting Comments: None Received.

Proposed conditions delivered to applicant on: July 1, 2024

Final staff report delivered to applicant on: July 2, 2024

- Applicant agreed with all of the conditions of approval on: July 2, 2024
- Applicant did not agree with the following conditions of approval: (list #'s)
- Conditions of approval have been emailed to applicant and no response has been received:

Attachments

A	B	C	D	E	F	G	H	I
Conditions of Approval	Site Plan	Agency Notifications	Agency Comment	Neighborhood Meeting Comments	Site Photos	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: *Guillermo Moreno-nunez*

Date: June 27, 2024.

Guillermo Moreno-nunez

Assistant Planner

Guillermo.moreno-nunez@yumaaz.gov

(928) 373-5000, x3038

Approved By: *Jennifer L, Albers*

Date: 7/1/24

Jennifer L. Albers

Assistant Director of Planning

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:

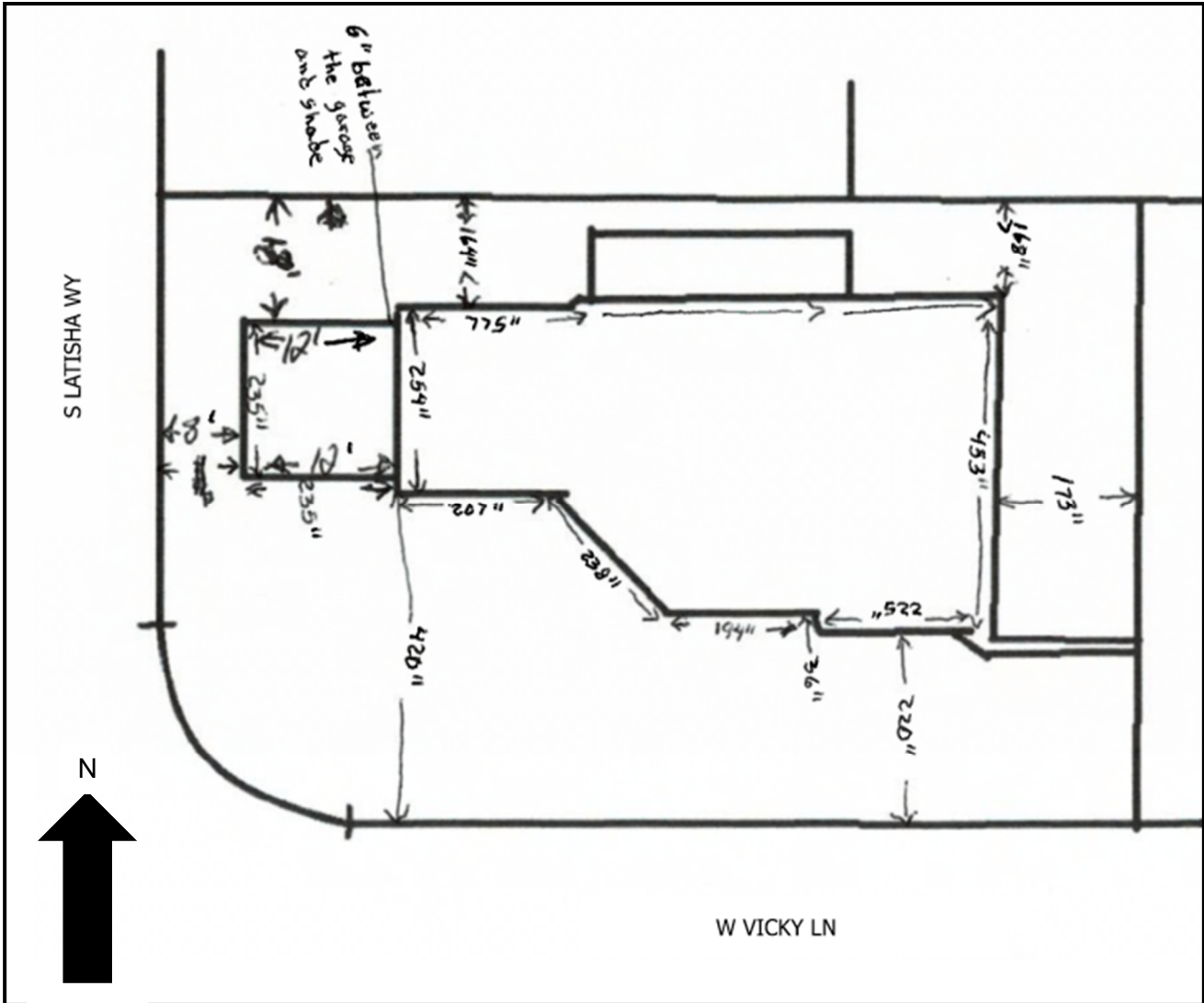
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Guillermo Moreno-nunez, Assistant Planner, (928) 373-5000 x3038

3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
4. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
5. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- o **Legal Ad Published: The Sun** 06/21/24
- o **300' Vicinity Mailing:** 06/11/24
- o **Site Posted on:** 06/14/24
- o **34 Commenting/Reviewing Agencies Noticed:** 06/12/24
- o **Neighborhood Meeting Date:** 06/24/24
- o **Hearing Date:** 07/11/24
- o **Comments Due:** 06/24/24

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	6/12/24	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	6/12/24	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Game and Fish	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	6/17/24	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	6/12/24	X		
Building Safety	YES	6/13/24			X
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	6/17/24	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D
AGENCY COMMENT**

Alan Kircher, Building Safety, Building Safety Manager for the City of Yuma, (928) 373-5169

- *“If this variance is approved, plans will need to be submitted and a building permit issued for this carport.”*

ATTACHMENT E
NEIGHBORHOOD MEETING COMMENTS

Date Held: June 24, 2024

Location: On-site

Attendees: Applicant: Mario and Concepcion Polanco

Staff: Guillermo Moreno-nunez, Assistant Planner

SUMMARY OF ATTENDEE(S)' COMMENTS RELATED TO THE PROJECT:

- Staff explained the next steps of variance process.

ATTACHMENT F
SITE PHOTOS



**ATTACHMENT G
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City	State	ZIP
ARIAS LUIS & JACQUELINE	1527 9TH PL	YUMA	AZ	85364
BALLESTEROS MARIA D	1532 W 9TH PL	YUMA	AZ	85364
BARERRA MIGUEL C & BLANCA E	960 S TERI DR	YUMA	AZ	85364
BELTRAN JOHN T & GENEVIEVE C	1553 W VICKY LN	YUMA	AZ	85364
CACHUMARA LLC	8222 S AVENUE D	YUMA	AZ	85364
CASTILLO GREGORY SCOTT & MEGAN JT	1681 W 10TH ST	YUMA	AZ	85364
CASTILLO GREGORY SCOTT & MEGAN JT	1681 W 10TH ST	YUMA	AZ	85364
CHAVEZ MICHELLE	11238 S HOLLAND AVE	YUMA	AZ	85365
DIMINO GIOVANNI & REGINA R C JT	7616 E OLIVE ANN LN	YUMA	AZ	85365
DURON JAIME & CECILIA JT	1502 W 9TH PL #4	YUMA	AZ	85364
ESPINOZA MARIA L	1519 W 9TH PL	YUMA	AZ	85364
GALINDO ALEJANDRO AYALA	2553 W 16TH ST #8	YUMA	AZ	85364
GARCIA JORGE L & ROSA MARIA &	PO BOX 5403	YUMA	AZ	85366
GERARDO ABEL & CAROLINA A	1529 W VICKY LN	YUMA	AZ	85364
GILL STEPHANIE A	1531 W 9TH ST	YUMA	AZ	85364
GREENVIEW DEVELOPMENT LLC	340 W 32ND ST #353	YUMA	AZ	85364
HERNANDEZ JORGE & CARINA JT	1550 W VICKY LN	YUMA	AZ	85364
HOANG ANH	957 S TERI DR	YUMA	AZ	85364
HOTCHKISS MELVIN K & MABLE J TRUST	1730 W 10TH PL	YUMA	AZ	85364
KEMP CAROLYN E TRUST 10-7-99	PO BOX 460169	HOUSTON	TX	77056
KEMP CAROLYN E TRUST 10-7-99	PO BOX 460169	HOUSTON	TX	77056
KHALIL JOHN G	951 S TERI DR	YUMA	AZ	85364
LARA JOSE & ROSA	1536 W 10TH PL	YUMA	AZ	85364
LILLIE DAVID W	1565 W VICKY LN	YUMA	AZ	85364
MADRID IRMA	1517 W 9TH ST	YUMA	AZ	85364
MARTINEZ AURORA	680 S 14TH AVE	YUMA	AZ	85364
MARTINEZ JOSE R	1502 W 9TH PL SP 3	YUMA	AZ	85364
MICHELS LUCINDA CLARK	1556 W VICKY LN	YUMA	AZ	85364
MORA HECTOR J	1528 W 10TH PLACE	YUMA	AZ	85364
MOUSTAFA SAMIR MARK JR	1508 W 9TH PL #8	YUMA	AZ	85364
ORTA BARBARA J	1515 W VICKY LN	YUMA	AZ	85364
POLANCO MARIO PATRON & CONCEPCION	963 S LATISHA WAY	YUMA	AZ	85364
RAMIREZ JUAN JOSE	1540 W 9TH STREET	YUMA	AZ	85364
RANGEL NOE T & MARIA C JT	PO BOX 5797	SALINAS	CA	93915
REGALADO SARA MORALES DE	1541 W VICKY LN	YUMA	AZ	85364
RIDESHORSE SAMUEL JR & CECILE M JT	1544 W VICKY LN	YUMA	AZ	85364
SALINAS DARLENE C	1526 W 9TH PL	YUMA	AZ	85364
SCHUSLER CATHERINE & ALAN II	971 TERI DR	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
TORRES STEVEN SAL	1521 W VICKY LN	YUMA	AZ	85364
VALVERDE TIMOTHY DAVID & LISA HEATHER	1547 W VICKY LN	YUMA	AZ	85364
VELAZQUEZ JOSE L & ALMA D	1516 W 10TH PL	YUMA	AZ	85364
WESTRIDGE NORTH CONDOMINIUMS	192 S MAIDEN LN	YUMA	AZ	85364
YUMA CHRISTIAN ACADEMY INC	101 E 26TH ST	YUMA	AZ	85364
ZAYD LLC	PO BOX 1010	YUMA	AZ	85366

**ATTACHMENT H
NEIGHBOR MAILING**

This is a request by Mario and Concepcion Polanco, for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-42764-2024**

NEIGHBORHOOD MEETING
06/24/2024 @ 5:00PM
ON-SITE

PUBLIC HEARING
07/11/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 963 S. Latisha Way, Yuma, AZ., you are invited to attend the public hearing to voice your comments. If you have questions or wish to submit written comments, please contact Guillermo Moreno-nunez by phone at (928)373-5000 ext. 3038 or by email at Guillermo.Moreno-Nunez@YumaAz.gov

ATTACHMENT I
AERIAL PHOTO



**Hearing Officer Meeting Minutes
July 11, 2024**

A meeting of the City of Yuma Hearing Officer was held on Thursday, July 11, 2024, at City Hall Council Chambers, One City Plaza, Yuma, Arizona.

HEARING OFFICER in attendance was Ray Urias.

CITY OF YUMA STAFF MEMBERS present included Jennifer Albers, Assistant Director of Planning; Amelia Dombay, Principal Planner; Erika Peterson, Associate Planner; Guillermo Moreno-nunez, Assistant Planner; Zenia Fiveash, Assistant Planner; John LeSueur, Assistant City Attorney and Alejandro Marquez, Administrative Specialist.

Hearing Officer Ray Urias called the meeting to order at 9:30 a.m.

CONSENT CALENDAR

Hearing Officer Ray Urias approved the minutes of May 9, 2024.

CONTINUANCES

VAR-42700-2024: *This is a request by Dahl, Robins & Associates on behalf of Jim Smith, for a Variance to reduce the minimum street side yard setback along 28th Street from 15 feet to 0 feet and along Avenue B from 15 feet to 8 feet to allow the construction of new offices, parking, and a warehouse, in the Limited Commercial (B-1) District. The property is located at the northwest corner of 28th Street and Avenue B, Yuma, AZ. (Continued to August 8, 2024).*

Hearing Officer Ray Urias approved the continuance of VAR-42700-2024 to the next Hearing Officer Meeting of August 8, 2024.

PUBLIC HEARINGS

VAR-42764-2024: *This is a request by Mario and Concepcion Polanco, for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ.*

Guillermo Moreno-nunez, Assistant Planner, summarized the staff report and recommended **DENIAL**.

QUESTIONS FOR STAFF

Hearing Officer Ray Urias summarized the four criteria of the Yuma City Code then referred to the site plan, and asked if the front yard of the home was located off of Latisha Way. **Moreno-nunez** replied yes. **Hearing Officer Urias** then asked if the front of the home required a twenty-foot setback. **Moreno-nunez** answered correct. **Hearing Officer Urias** asked where on the property does the setback fall. **Moreno-nunez** answered the setback ends at the front of the garage. **Hearing Officer Urias** then asked if the garage was built as part of the building. **Moreno-nunez** replied yes. **Hearing Officer Urias** asked were the sides of the home located on the north and south of the property and then asked what were the side and rear yard setbacks. **Moreno-nunez** replied yes, the side yards were located on the north and south of the home. **Moreno-nunez** went on to say that the side yard setback to the north was seven feet, and the side that faces Vicky Lane and the rear yard were ten feet.

Hearing Officer Urias asked could a legal carport be built on the property. **Moreno-nunez** replied yes. **Hearing Officer Urias** asked if that area was located on the southwest part of the property. **Moreno-nunez** replied yes. **Hearing Officer Urias** commented according to the pictures in the staff report it would be difficult to build on that part of the property because of the landscaping. **Moreno-nunez** answered, that is correct.

APPLICANT/APPLICANTS REPRESENTATIVE

Mario Polanco, 963 S. Latisha Way, Yuma, AZ, stated that the purpose of building the shade structure was to help alleviate some of the cooling cost for the home, and that he was not made aware that permits were required prior to construction. **Polanco** went on to say that there are other similar shade structures in the neighborhood so he thought it was allowed, and that he had considered to build on other areas of the property, but the landscaping is uneven and would have been difficult to build there.

Hearing Officer Urias asked if the other area was located by the bedroom side of the home. **Polanco** answered yes, then stated that the area slopes down, and has shade trees along with other types of landscaping. **Polanco** then stated that the only other option to place the shade was at the current location.

Vanessa Polanco, 963 S. Latisha Way, Yuma, AZ, stated that the reason this type of shade was chosen was because for safety reasons, and that the other shades in the neighborhood were not constructed well and would break apart and damage the neighbor’s vehicles and property.

Hearing Officer Urias commented that the criteria for a variance is very strict, and then stated that criteria numbers three and four had been met, but numbers one and two had not.

Polanco commented the side of the home that the twenty-foot setback is located faces Latisha Way is the hottest part of the home, so that was the reason for placing the shade at its current location.

PUBLIC COMMENT

None

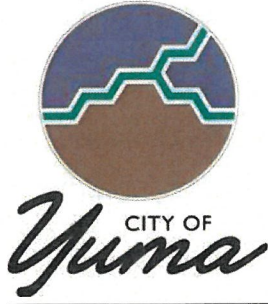
DECISION

Hearing Officer Ray Urias denied the request to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ.

Hearing Officer Ray Urias adjourned the meeting at 9:49 a.m.

Minutes approved and signed this _____ day of _____, 2024.

Hearing Officer



**Department of Planning
and Neighborhood Services**

One City Plaza
Yuma, Arizona 85364
(928) 373-5175
TTY (928) 373-5149
www.YumaAZ.gov

July 12, 2024

Mario and Concepcion Polanco
963 S. Latisha Way
Yuma AZ, 85364

**RE: 963 S. LATISHA WAY
REDUCE FRONT YARD SETBACK
CASE No. VAR-42764-2024**

On Thursday, July 11, 2024, the Hearing Officer for the City of Yuma **DENIED** your request for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ.

You have the right to appeal the decision of the Hearing Officer to the City Council. Please return the attached notification of appeal form within (10) business days of the decision of the Hearing Officer or no later than the close of business on July 26, 2024.

If you have any questions, please call Guillermo Moreno-nunez (928)373-5000 ext. 3038, or email at Guillermo.Moreno-nunez@YumaAZ.gov.

Sincerely,

Guillermo Moreno-nunez
Assistant Planner

GM/am
Enclosures (1)
1. Appeal Form

NOTIFICATION OF APPEAL

**PURSUANT TO ARIZONA REVISED STATUTES,
SECTION 9-462.06.A**

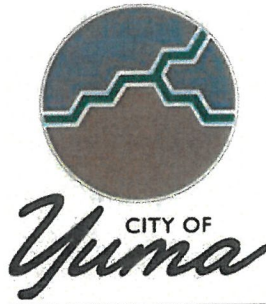
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I wish to appeal the decision of the Hearing Officer on Case No.: _____
to the City Council.

You must file the Notification of Appeal form within ten (10) business days of the decision made by the Hearing Officer to the Department of Community Development, Director, One City Plaza, Yuma, Arizona 85364, 928-373-5175.

Name

Date



**Department of Planning
and Neighborhood Services**

One City Plaza
Yuma, Arizona 85364
(928) 373-5175
TTY (928) 373-5149
www.YumaAZ.gov

July 12, 2024

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Yuma AZ, 85364

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____Mario Polanco Patron____
Name

____7/13/24____
Date



July 23, 2024

Mario Polanco, *Appellant*
963 S. Latisha Way
Yuma, Arizona 85364

Re: Appeal of Denial of Request for Variance
Case No.: VAR-42764-2024

Dear Mr. Polanco,

The City of Yuma's Department of Planning and Neighborhood Services has received your notice of appeal in the above-referenced matter. Appeals of variance requests are regulated by Yuma City Code (Y.C.C.) § 154-02.02(C) and Arizona Revised Statutes (A.R.S.) § 9-462.06(A). Please review that code and statute and the applicable laws cited in the denial of your request for a variance.

Your appeal is scheduled to be heard before the City Council as a quasi-judicial body on Wednesday, **September 18, 2024**. The City Council will receive the written materials that were presented to the Hearing Officer in this case. The parties may supplement those materials as follows:

- Appellant Polanco may submit any additional material to Lynda Bushong, City Clerk for the City of Yuma, at clerk@yumaaz.gov on or before **4:00 PM on August 12, 2024**.
- Appellee City of Yuma may submit its Brief or Reply to any additional material submitted by Appellant Polanco on or before **4:00 PM on August 22, 2024**.

Any additional material will be shared with both parties and made part of the record submitted to the City Council.

During the appeal hearing on **September 18, 2024**. Each side will be allotted ten (10) minutes to present their case. Appellant Polanco will present first, followed by Appellee City of Yuma. Because Appellant Polanco has the burden of persuasion, Appellant Polanco may opt to reserve two (2) to three (3) minutes of Appellant's allotted ten (10) minutes for final reply.

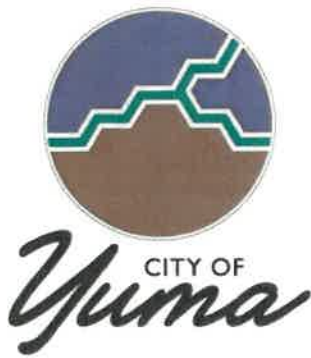
You have the right to be represented by an attorney. If you will be represented by an attorney in this appeal, please instruct your attorney to enter his or her appearance as counsel of record with the City Clerk without delay.

The City of Yuma prohibits discrimination based on race, color, sex, national origin, age or disability in its programs and activities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the City of Yuma's ADA Coordinator at (928) 373-5125 or TTY (928) 373-5149.

Finally, if you wish to withdraw your appeal of the Hearing Officer decision, please inform the City Clerk and the Department of Planning and Neighborhood services in writing so the matter may be removed from the agenda.

Sincerely,
Guillermo Moreno-nunez

Guillermo Moreno-nunez,
Assistant Planner



**Planning and
Neighborhood Services**
One City Plaza
Yuma, Arizona 85364
(928) 373-5050
Fax (928) 373-5053
TTY (928) 373-5149
www.YumaAZ.gov

TO: City Council
FROM: Guillermo Moreno-nunez, Assistant Planner
DATE: August 19, 2024
RE: **Mario Polanco Appeal of the July 11, 2024, Hearing Officer Denial of his Requested Variance for his Property located at 963 S. Latisha Way, Yuma, Arizona.**

Executive Summary

This appeal concerns Mr. Mario Polanco’s variance application, VAR-42764-2024, in which Mr. Polanco seeks a variance to reduce the minimum front yard setback from 20 feet to 8 feet to allow the installation of a metal shade structure in the Low Density Residential (R-1-6) District, for his property located at 963 S. Latisha Way (“Property”). Within this zoning district, the minimum setbacks are as follows: 20-foot minimum front yard setback, 7-foot minimum side yard setback, 10-foot street side yard setback, and 10-foot rear yard setback. This Property is located within the Westridge South Subdivision.

Mr. Polanco constructed a metal shade structure within the front yard setback, resulting in a 0 feet setback along the front property line. Additionally, the property has an 8-foot utility easement along the front and street side yard which must be maintained free of any structures. A code enforcement case against Mr. Polanco was initiated (CODE-BS008943-2023). On December 19, 2023, Mr. Polanco was mailed a notice of violation for the construction of an approximately 400 square foot metal shade structure within the front yard setback without a building permit.

After receiving the notice of violation, Mr. Polanco submitted a variance application to reduce the minimum front yard setback from 20 feet to 8 feet to allow him to install a smaller shade structure within the front yard setback and outside the utility easement.

On July 11, 2024, the Hearing Officer held a hearing on Mr. Polanco’s request for a variance. City Staff filed a report with the Hearing Officer and recommended denial of the request, noting that the applicants request for a variance failed to meet the criteria of §154-03.04(D)(1)(a) of the Yuma City Code. After taking testimony on the variance application, the Hearing Officer denied the variance request.

Pursuant to Yuma City Code § 154-02.02(C) Mr. Polanco appeals the Hearing Officer’s denial of his variance request.

Argument

State law and City code require four conditions for a variance. See A.R.S. § 462.06 and Y.C.C. § 154-03.04(D). Specifically, Y.C.C. § 154-03.04(D)(1) states that the Hearing Officer:

. . . shall grant a variance(s) *only when* findings of fact are made that *all of the following conditions exist*:

- (a) There is a special circumstance(s) or conditions(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.
- (b) The special circumstance was not created or caused by the property owner or applicant.
- (c) The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.
- (d) The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.

Each of the four (4) criteria required for the approval of a variance application must be answered in the affirmative. The inability to answer any one of the four (4) criteria in the affirmative, as a matter of law, must result in the denial of the variance application.

In this case, Staff believes that Mr. Polanco fails to meet three of the four required conditions. The Hearing Officer found that Mr. Polanco failed to meet two of the four required conditions.

I. Is there a special circumstance that does not apply to most other properties in the district?

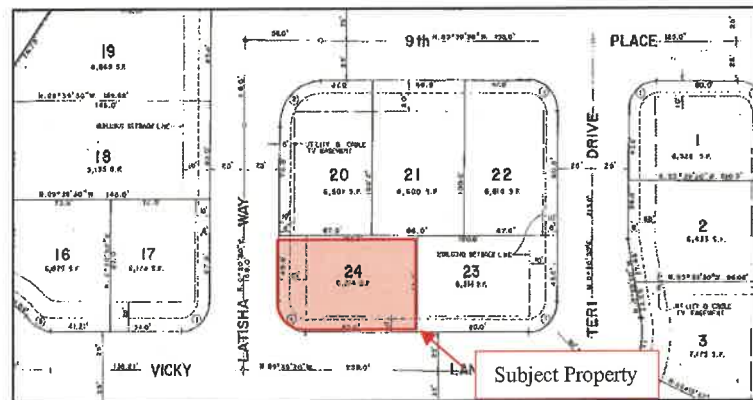
Staff's Position:

Staff was unable to identify a special circumstance or condition that applies to this property which does not apply to most other properties in the district. As depicted in the aerial photo below, the subject property was developed with a single-family residence and a two-car garage. The placement of the existing garage provides the required parking outside the minimum 20-foot front yard setback. In addition, as depicted in the recorded Westridge Subdivision Plat the dimensions of this property are 100 feet along the north property line, 63 feet in rear, 80 feet along street side, 43 feet along the front and 20 feet along the corner curve, resulting in a 6,214 square foot lot and exceeding the minimum lot size requirements for this zoning district.

Hearing Officer's Finding:

Hearing Officer Urias agreed with staff's position, as he was unable to identify a special

circumstance with the subject property, explaining to the applicant that his property is a normal rectangular shape lot and similar in size to other properties in the area.



II. Was the “special circumstance” created by the property owner or applicant?

Staff’s Position:

Staff was unable to identify a special circumstance that applies to this property. The applicant constructed the shade structure within the front yard setback.

Hearing Officer’s Finding:

Hearing Officer Urias stated that there was no special circumstance, and reference back to his answer on criteria number one where he explained shape, size, and development of property being similar to other properties in the area.

III. Would denying the variance prevent the applicant from enjoying substantial property rights enjoyed by other property owners in the vicinity?

Staff’s Position:

The property owners within the Westridge South Subdivision are required to comply with the development standards of the Low Density Residential (R-1-6) District, including minimum required setbacks. Mr. Polanco stated that the proposed structure

would provide shaded parking area to avoid high temperatures when entering his vehicles. However, the property is developed with a two-car garage, which is similar to the adjacent properties in the Westridge South Subdivision. Staff does not believe the denial of this variance request implicates a significant property right enjoyed by others.

Hearing Officer's Finding:

Hearing Officer Urias disagreed with Staff on this factor; he agreed with the applicant and believes that it is a property right to have vehicle shade here in Yuma due to high temperatures, and therefore found that the applicant met criteria number three.

IV. Would granting the variance be materially detrimental to other people residing or working in the area?

Staff's Position:

Granting the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood and to the public health, safety, and general welfare, as the property owner is proposing to reduce the size of the existing structure by 8 feet to ensure it is not located within the utility easement.

Hearing Officer's Finding:

Hearing Officer Urias agreed with Staff that granting the variance would not be detrimental to the neighborhood since none of the neighbors complained about the existing shade structure or objected to the applicant's proposal to reduce its size to remove it from the utility easement.





Conclusion

The strict requirements for the approval of a variance application required by State law and Yuma City Code § 154-03.04(D) cannot be satisfied by the applicant. The applicant has not demonstrated a special circumstance that applies to the Property. Therefore, Mr. Polanco is not eligible for a variance under State law or City code. As such, the variance application for the Property cannot be approved and must be denied.